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फाइल स0 Volume

भारत सरकार **GOVERNMENT OF INDIA** गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

अनुभाग SECTION

पत्राचार CORRESPONDENCE

> विषय SUBJECT

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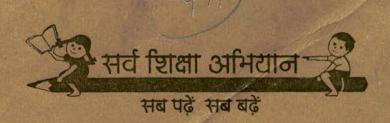
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पिछले हवाले

Previous References

बाद के हवाले Later References



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भारत सरकार

GOVERNMENT OF INDIA गृह मत्रालय

MINISTRY OF HOME AFFAIRS

अनुभाग Section टिप्पणियां/पत्राचार NOTES/CORRESPONDENCE

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SUBJECT

Letter from Rudra Jyoti Bhattacharies Advocate Kolkatter High Court regarding Netaji Subhas Chandra, Rose-Appointment of a Commission of Inquiry - Regarding

पिछले हवाले **Previous References**

बाद के हवाले **Later References**

In Vol-12



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SPEED POST

TELEGRAM: LAWCENTRAL

No. 11018/62/98-II/ 2433 TELEX: 021-4992-LAW-IN

Government of India Smt.S.Bhattacharya Central Govt. Advocate Ministry of Law & Justice Tel.No. 248-6515(Off) Department of Legal Affairs Branch Secretariat 455_C399(Res.)

FAX: 033-2485215 & 033-405191

4, K.S. Roy Road, Calcutta-700 001.

Dated, the 26th June, 1998.

1807 981 15 011

Shri P Dey, Section Officer, Ministry of Home Affairs, North Block, New Delhi-110 001.

W P No. 281 of 1998 Subject: Rudra Jyoti Bhattacharjee Union of India & Ors.

Dear Sir,

Enclosed please find herewith certified copy of the judgement dated April 30, 1998 delivered by the Hon'ble Mr. Prabha Shanker Mishra, Chief Justice and the Han'ble Justice B Bhattacharya for taking necessary action at your end. The time to file review petition is 30 days from the date of the judgement.

Encl. 99

Yours faithfully,

813 25/6 (S Bhattacharyya) Cantral Government Advocate



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any agency or publisher or any person to publish the story

The Hon'ble Justice B. Bhattacharya

Rudra Jyoti Bhattacharjee & Anr.

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ver him to the all itly of India will welcome h Union of India & Ors.

(public Interest litigation matter)

Nete 1 sbhas Chandra Bose sinc

and (5) to produce and or transmit *apdeos Judgement on : April 30, 1998.

us mentioned in amerure 'F'to the peti prabha Shanker Mishra, C.J.:

It is difficult for us to pick up the threads to have any well-knot statement of fact from the contents of the instant petition yet, after our several attempts and after hearing the petitioner in person and the learned Advocate representing the respondents No.1 to 4, we have been able to gather some bits from here and some bits from there to have some comprehension of the narration in the petition. I am to apply and and pulled pa

The Asiatic Society, Calcutta is impleaded as one of the respondents. We do not, however, find any reason why any perogative order and/or direction be issued ormade against the society. Since, in our view, the Society is not a necessary party, we are not persuaded to issue any notice to it, name of the 5th respondent is accordingly deleted and expunged.

Alleged mysterious disappearance of Netaji Subhas chandra Bose, according to the petitioner requires direction inter alia, to the respondents herein (1) to classify and disclose all documents relating to Netaji Subhas chandra Bose including the Indian National Army; (2) to make a categorical statement whether name of Netaji was and still is in the list of war criminals drawn up after the Second World war and issue a press communique to the said effect; (3) not to allow any agency or publisher or any person to publish the story of the death of Netaji Subhas chandra Bose in the alleged plane crash on 18.8. 1945; (4) to disclose the stand of the Government of India regarding Netaji Subhas chandra Bose if he is found on Indian soil - "whether Govern of India will welcome him or hand over him to the allied forces for trial as war criminal and make a press communique to that effect" and (5) to produce and or transmit all the records, files and documents as mentioned in Annexure 'F'to the petition about disappearance of Netaji subhas chandra Bose since August 18, 1945 and subsequent thereto. It is difficult for us to pick up the threads to have any

and jaoined a multitude of Indians that for his gallant deeds for independence of India, Netaji is recognised as one of the greatest national leaders of international importance that his mysterious disappearance on and from August 1945 is still wreaking and agitating the minds of the citizens of India and that the story which was once floated that he died in the alleged plane crash on 18th August, 1945 at Tai Hoku in Japan is not accepted by

sogiety. Since, in our view, the society is not a necessary

party, we are not persuaded to issue any notice to it, name

of the 5th respondent is accordingly deleted and expunsed.

one British Intelligence Officer allegedly informed one Amrik singh Gill, who was awaiting execution of death sentence, on 19th August, 1945 that Netaji died in an aircrash on 18th August, 1945. Gill published the said information in a magazine of Netaji centre publication at Kualalampur. The same was reprinted in Jayshree, a Bengali Magazine, in its Azad Hind colden Jubilee number in October, 1993. Delhi Radio on 21st August, 1945 made the announcement that Netaji died in an aircrash on 18th August, 1945 (Ref., "A Springing Tiger" by Hue Toy, a Military Intelligence Officer of British Army) . Quite a few publications and information to the above effect followed and when the controversy thickened and mystery deepend, the Government of India constituted Netaji Enquiry committee in the year 1956 with Sri Shahnwaz khan as the president and Sri Suresh chandra Bose and Sri S.N.Moitra as Members. This was followed by appointment of a commission of inquiry in the year 1970. Netaji Enquiry Committee as well as the Commission of Enquiry submitted their reports. On 28th August, 1978, however, the then prime Minister of India made a statement at the floor of the Lok Sabha that, "Shah Nawaz Committee and Khosla Commission hold the report of Netaji Subhas Chandra Bose's death following a plane crash as true. Since then reasonable doubts have been cast on the correctness of the two reports and various important contradictions in the testimony of the witnesses have been noticed. Some further contemporary official records have also become available. In the light of those doubts and contradictions and those records. Government find it difficult to accept that the earlier conclusions are decisive. " According to th petitioner, the above statement of the then prime Minister India was a virtual and simultaneous burial of the Netaji E committee and Enquiry commission reports. However, on 11th

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April, 1979 the then Minister of State for Home Affairs mat. statement on the Lok sabha in reply to a question that was raise on the request by General Fujiwara of Japan for bringing the alleged ashes of Netaji from Renkoji Temple to India, "In the light of reasonable doubts cast on the correctness of the conclusions reached in two enquiry reports on the death of Netaji subhas chandra Bose, the Government finds it difficult to accept that the earlier conclusions are decisive. It will, therefore, not be possible to take any action at the present on the suggestion of Gen. Fujiwara to bring the ashes." According to the petitioner waxing and waning attitude and behaviour of the Government of India and other responsible persons have almost betrayed the design of precipitating and perpetuating the myth of the death of Netaji Subhas Chandra Bose in the alleged plane crash as reality without there being any serious effort to establish by hard and genuine evidence.

The petition with the facts as above, however, is littered with the statement that the then Government of India (British) after the second world war declared Netaji a war criminal and following the independence and almost simultaneously to India's taking a seat/place in the United Nations organisation ratified and agreed that war criminals of friendly countries would be delivered by the country holding them; thus agreeing that India would deliver all war criminals of the second world war to the Government of Great Britain, and since Subhas chandra Bose was declared a war criminal by the Great Britain and India ratified and agreed to do so, it still holds Subhas Chandra Bose as war criminal. The petitioner, in short, in this behalf has been agitating and asking - Does Government of India still hold Subhas Changra Bose as a war criminal and thus does it behave the Government to treat subhas shabbily as above, who while alive as well as in death is the embodiment of the ideals and images of a true Indian for all fellow Indians.

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we have summarised above the material facts x upon which the petitioner has sought for the reliefs as indicated above and omitted to mention particulars of information in any detail with respect to either statements or works about the death of Netaji as alleged and the mysterious disappearance, or on the Government of India even unwittingly as alleged, still holding that Netaji is a war criminal. Narration of the facts, however, shall remain inconclusive if we do not refer to a recent case (W.P.No. 1805 of 1997) which has been disposed of by a Bench of this court on 7th April, 1998. The said petition was filed as vox populi when newspapers like the Bartaman in its publication of 23rd August, 1997 and the Anandabazar in its publication of 27th August, 1997 published/reported that the then Defence Minister had stated that he would bring the ashes of Sri Subhas Chandra Bose from Renkoji Temple of Japan. After referring to the judgement of the Supreme court in Union of India versus Bijon Ghosh / 1998 W.B.L.R.(SC) page 9 7 and the publications aforementioned, this court in its judgement in the said case has stated as follows :- histor lines when

"When the Government of India intended to hobour him by conferring the Bharat Ratna Award and used in press communique the expression 'posthumously', a petition under article 226 of the Constitution of India was moved and against an interlocutory order therein a Special Leave petition was preferred before the Supreme Court ******* We have no manner of doubt that a responsible Government of the people of India will do nothing which would undermine the stature and image of Netaji Subhas Chandra Bose. Except in such proceedings in which any legal presumption is available, for purposes as the acceptance of ashes as that of Netaji Subhas Chandra Bose,

it is not possible to accept that he died on 18.8.1945 or at any time thereafter unless thereis conclusive evidence. Any ashes of a dead person in the absence of such evidencecannot be accepted as that of Netaji by the people of India. It would be difficult to accept that the Defence Minister of the country has made a statement of such consequences without verification of the facts, yet responsible newspapers like Bartamann Ananda Bazar have so reported and the petitioner has moved this court as he is, as stated, alarmed that the Government of India has intended to accept the factum of the death of Subhas chandra Bose in the shape of ashes which are allegedly stacked and kept at Renkoji Temple, Japan. Before closing the proceedings, however, in view of the assurances that nothing of the sort is likely to be done by the Government of India, we are inclined to order that beforeaccepting the ashes which are allegedly kept at the Kenkoji Temple, Japan as that of Netaji Subhas chandra Bose, the Government of India shall obtain obtains full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at the Renkoji Temple of Japan mo are that of Netaji subhas Chandra Bose and take the people of India in confidence." and house alore repres

Thus, on the questions of death of Netaji, that he died in the plane crash, that his ashes arekept at Renkoji Temple of Japan, that Government of India is almost accepting that Netaji has size died and that his ashes are being brought to India in our view, are fully answeredd by the judgementin W.P.No.1805 of 1997 dated 7th April, 1998. What needs, however, to be clarified for all concerned to bear in mind that Government of India did realize that full facts and evidence were required

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to be gathered from every person and place and it appointed
first the Enquiry Committee and next Enquiry Commission. After
the reports of the Committee and the Commission were submitted,
the then prime Minister made categorical statement in the Lok
Sabha that since the reports, reasonable doubts havebeen cast
on their correctness, various important contradictions are
noticed in the testimony of the witnesses and further contemporary official documentary reports have become available, "in
the light of those doubts and contradictions and those records,
Government find it difficult to accept that the earlier conclusions are decisive."

Official stand of the Government as expressed in the Lok
Sabha on 28-8-1978 is reiterated on 11-4-1979 by the then Minister
for State of Home affairs. Two deviations/aberrations, however,
occured first when Government of India intended to honour Sri
Subhas chandra Bose by conferring 'Bharat Ratna' Award and used
in the press Communique the expression posthumously and secondly
recount by Defence Minister of the country made a statement that
Government of India intended to accept the factum officeath of
Subhas chandra Bose and bring the ashes which are stacked and
kept at menkoji Temple in Japan.

but with pominion Status in the British Empire on 15th of August,

1947. The people of India, however, resolved to constitute it

into a Republic and their constituent Assembly on 26th day of

November 1949 adopted, enacted and gave to the people the constitution of India, to be effective on and from 26th of January 1950.

on 15th of august 1947, India, indeed, achieved Independence and inherited the British sovereignty as well as British legacy.

When the people, however, adopted the constitution and established the Republic, India unsackled itself from the yoke of

past to start afresh with the goal of justice, Social, Economic and political, Liberty of thought, expression belief, faith and worship. Equality of status and of opportunity and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the Nation and guaranteed Equality of law and equality before law to all persons and freedoms of speech and expression, assembly peaceably and without arms, of association or Union and of movement freely throughout the territory of India and to reside and settle at any part of the territory of India. Article 13 of the constitution declared laws inconsistent with or in derrogation of the Fundamental Rights in part-III of the Constitution void and inhibited the State from making any law which took away or abridged the rights conferred by part III.

The status Netaji Subhas enjoys in the Indian Republic is that of a person who is a Bharat Ratna. He enjoys a greater status in the hearts and minds of the people of India than a mere title which the Government bound by the rules of procedure intended to confer upon him. The expression 'posthumously' in the Communique of the Government of India when Bharat Ratna was to be conferred indeed was a sad and irresponsible act at some executive level of the Government which caused wide-spread resentment and as noticed by the Supreme court in Union of India v. Bijon Ghosh (Supra), "in deference to the feelings so eloquently expressed in this proceedings and which have no doubt conveyed to the Union of India, the award was in fact not conferred and the proposal was dropped. " Another aberrative act caused the filing of W.P.No. 1805 of 1997 and this court has ordered, "before closing the proceedings, however, inview of the assurance that nothing of the sort is likely to be done by the Government of India we are inclined to order that before

accepting the ashes which are allegedly kept at the Renkoji Temple at Japan as that of Netaji Subhas chandra Bose, the Government of India shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at Renkoji temple of Japan are that of Netaji subhas chandra Bose and take the people of India in confidence."

The two aberrations are outside the Lok Sabha, True, one which carried the express 'posthumously' was a communique of the Government of India which is deference to the popular feeling was withdrawn but the other, that is to say, thestatement of the Defence Minister in respect of the ashes of Netaji was neither a statement in any of the Houses of parliament nor in any communique of the Government of India. That was out and out a statement most unwittingly made by the Defence Minister of the country. The Official stand of the Government of India, thus, is that notwithstanding the reports of the Enquiry committee and the commission of Enquiry aforementioned, there are doubts as to the death of Netaji in the manner as reports indicated and that there was/is a need to have further probe and enquiry to conclusively establish that Netaji has died, that he died in the plane crash, as alleged, and that his ashes are lying in some temple in Japan. With such specific stand when the Government has informed the parliament more than once as above and no further enquiry or probe has yet been held, it is beyond imiagination that Government of India without further or fresh enquiry and/or probe would accept the factum of death of Netaji Subhas and/or of the alleged air-crash death and/or the ashes being kept at a temple in Japan.

Learned Counsel for the respondents has categorically assured the court that the Government of India has been maintained and is maintaining even now that a further/fresh enquiry/ probe is required and the information that Netaji died in the

plane crash on August 18, 1945 is full of loopheles, contadictions and therefore inconclusive.

harping on Netaji being a war criminal for the Indian Republic and its people as declared by the British Government in year 1945 or in year 1946. True people of India fought along with the British against Japan, German and Italy but they continued their way of Independence against them until they quit India on 15th of August 1947. For British, one who stood against their oppressive acts was a criminal. For Indians, he was a freedom fighter. For British, who supported their was efforts friends and allies. For India all who stood against aggression and subjugation were friends.

Independence of India, formed Indian National Army (I.N.A.)

marched ahead to free the people of India from subjugation and reached Indian territory of the Andaman and Kohima, Manipur.

His was an army of Indians, for the Indians and for the Independence of India. Such a hero however when India achieved its independence was mysteriously missing. It (India) has been waiting to welcome its Hero. He has, however, not been found yet.

people in India are not going, it is clear from the aforementioned events, to accept that their hero who led the first National Army is dead unless they are convinced after seeing conclusive evidence in this regard. Who then will call Netaji a war criminal ? Any Indian public except a traitor, a person who does not have the defence and love for the country and its heros alone can do so. We do not have any hesitation

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in concluding that the statements in documents which are lying archives which are to the effect that Netaji is a war criminal and all persons who have been saying such a thing are relies of the British Raj. The petitioner shall be well advised to disabuse himself of even remotest/faintest idea that the people of India, and the Government of India since it is the Government of the people of India, can ever indreams would think of Netaji as a war criminal or a traitor. As we understand same and understanding people in Great Britain too take him as one of the ablest sons of India and one of the most loved by the people of India. We see thus no reason in why any Rule be issued to de-classify and disclose all documents relating to Netaji Subhas chandra Bose including Indian National Army untill such inquiry as is derived is held. De-classification and disclosure of the contents of sensitive documents cannot be insisted upon unless one is satisfied that such disclosure would not be against the interest of the sovereignty and integrity of India, the Security of the States, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court or defamation or would not cause incitement to an offence (see Article 19 of the constitution) and if made would not harm the public interest. In the instant case we have reasons to believe, any such disclosure would not held the cause of the public at all. ing the plane deap at only

We see absolutely no reason for any statement from the respondents whether Netaji Subhas Chandra Bose is still in the list of war criminals drawn after the second world war. As we have indicated above, no one much less people of India, would allow any person to treat Netaji as a war criminal. For, Indians Netaji is one of the great patriots.

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It is difficult similarly to imagine how any Indian x would think that Netaji would not be welcome on the Indian soil when Indians hold him amongst the best a few sons of India. The petitioner, as we have observed earlier, has been ill-advised to seek any disclosure from the Government of India or such information whether Government of India would welcome him or hand him over to the Allied Forces for trial as war criminal. such misconceived ideas, in stead of helping the cause, as we have observed above, would cause dissensions and resentments and unnecessary bickerings. We are inclined however to take notice of one aspect of the matter : There has been no positive attempt it seems after the statement by the prime Minister in the year 1978 and by the Minister of State for Home Affairs in 1979 that the findings in the reports of Netaji Enquiry committee and commission of Enquiry were not conclusive and decisive for any further or fresh enquiry and no serious effort in this behalf has been made. It seems lapses have occured from time to and public at large is dissatisfied. It is, therefore, necessary that respondents are told that their silence may not be appreciated in the matter and they for obvious reasons, as indicated above, should proceed in some effective manner to enquire into the circumstances of the death, whether Netaji has died and if he is alive where is he, with due despatch. Various publications some saying Netaji has died, some saying - No, he has not, some accepting the plane crash story, some not accepting it, some suggesting that the ashes in the temple in Japan are that of Netaji and others not accepting, somebelieving, and seriously, that Netaji is still alive and is available in some part of the world cause confusion and sometimes irritation and anger in public. No publication which would affect the friendly relations with foreign States, public order, the sovereignty and integrity of India, cause defamation or incitement to an offence should be

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permitted. We have reasons to think that such irresponsible publications do sometimes affect public order and cause incitement to violence.

Some publications in respect of which mention is made by the petitioners which are per se defamatory to the National Hero Subhas Chandra Bose. One of the most charished rights of the Indians is the freedom of speech and expression, yet it is important that this right is not exercised to disturb public order or cause incitement to offence or defamation. We have not, however seen such publications as a whole except such excerpts which are quoted by the petitioner for forming any conclusive opinion that books already published need to be prescribed. Yet we aresatisfied that there is a need to give a fresh look to such publications and prescribe such books or such portion of the books which spent one way or the other on the subject of the death of Netaji Subhas chandra Bose's preindependent activities in respect of which the Government of India is yet to complete enquiry. All fresh or new publications, in our view, shall also need a similar scrutiny and all such scrutiny shall be made keeping in view Article 19(1)(a) read with Article 19(2) of the constitution of India and the observations made above. Hitch the thrw out to associate alim

as follows. : - descript remainded, we are inclined to direct

- (1) Respondents shall launch a vigorous enquiry k in accordance with law by appointing, if necessary, a commission of Enquiry as a special case for the purpose of giving an end to the controversy

 (a) whether Netaji Subhas Chandra Bose is dead or alive;
 - (b) if he is dead whether he died in the plane crash, as alleged;

(c) whether the ashes in the Japanese temple are sauto balashes of Netaji; HE estademon ob aucided in a

(d) whether he has died in any other manner at any other place and, if so, when and how;

- (e) if he is alive, in respect of his whereabouts.
- (2) The respondents shall follow for the said purpose the directions of this court given in w.p.No. 1805 of 1997 namely, to take the people of India in even as . "confidence; something to membrand of the to
 - (3) Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such HAD publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing -sha a said sincitement of violence; doubt and to doe due ont
- (4) Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above.

This disposes of the writ pex application.

All parties are to act on a signed xerox copy of this judgement and order on the usual undertaking.

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B. Bhattacharya, J.: 20 45 115 65 25 1000

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W.P.No.281 of 1998

In the High court at calcutta

Constitutional Writ Jurisdiction

Original Side

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applicant

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Mich Court 9 8

Rudra Jyoti Bhattacharjee & Anr. vs.

Union of India & Ors.

(public Interest litigation matter)

Date of Judgement: April 20, 1998.

Judgement delivered by the Hon'ble Mr. prabha Shanker Mishra, Chief Justice and the Hon'ble Justice B. Bhattacharjee

Filed this 16th day of June, 1998.

Registrar.

MHA - IS(D.III)

S.No.1(R) - PUC

Rudra Jycti Bhattacharjee, Advocate, High Court, Calcutta has raised the matter of Shri Netaji Shri Subhash Chandra Bose's name being in the list of "WAR CRIMINALS".

It has inter-alia been mentioned that in a letter from the Execuitve Office of the Secretary General to Mr. Surenji Goyal, Retired Air Vice-Marshal, Indian Air Force it has been mentioned that "No United Nations AGency or publication would use the term War Criminal in reference to Netaji.

The subject matter of War Criminal seems to be the concern of M/o External Affairs. We may in the first instance call for comments/views of Public Section, before sending the communication to MEA.

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Submitted.

The subject matter reassed in F.R is whether Nelaji Subhas Chandra Bose was and still is in the list of was and still is in the list of war criminals doctared by the USA, when allies after the Second UK and their allies after the Second Norld Ware, which should perhan to HEA. We may, I approved, call for information from the MEA.

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MHA/IS(D.JIJ)

Department of Justice have forwarded a writ petition filed in the High Court of Calcutta by one Shri Rudra Jycti Phattacharya regarding mysterious disappearance of Netaji Subhash Chandra Pose. The writ application was to come up for hearing in 16.2.98. However it was received in this Ministry much later. We may in the first place write to the counsel to know the outcome of the hearing. About mentioning it.

- 2. As regards the writ petition, it is a sequel to the petitioner's earlier letter addressed to the HM wherein he had inter-alia desired to know whether the name of Shri Subhash Chandra Pose still in the list of war criminals. We have received similar types of writ petition in the past also, expressing doubts over facts and events surrounding the death of Netaji. A case to point in this regard is placed in the file linked below. In this instant writ petition Ministry of Defence, Ministry of HRD, Ministry of Home Affairs, Ministry of External Affairs have been made respondents. The petitioner has prayed for declassification and disclouse of all documents relating to INA and the Government's stand regarding Netaji's name in the list of war criminals. As per the main body of the writ petition consisting of 34 paras, the petitioner has sought to impress that Netaji's death in air crash at Taihoku on 18th August, 1945 is not the actuality.
- 3. Para Nos. 12, 15,19,20,24,25 of the writ petition pertain to the Ministry of External Affairs. Para No. 21 pertains to the Ministry of Defence. A comprehensive parawise comments can only be prepared after views of these Ministries are obtained. We may in the first place write to the counsel to intimate whether the petition has been admitted, as suggested in para 1, above and also reduest the counsel to send a clear copy of the writ petition as portions of the petition are not legible.
 - Submitted.

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Ref: DS(IS.I)'s note on pre-page.

As per directions of DS(IS.I), Smt. S. Battacharyya, Central Govt. Advocate was contacted on phone for a certified copy of the order in W.P. filed by Rudra Jyoti Bhattacharjee & An. Vs. UOI regarding Netaji and also for the time limit for filing a review petion in the case.

Smt. Bhattacharyya had intimated that an application has been made for the certified copy of the order and as regards time limit for filing a review petion, she informed that as per law, such petition should be filed within one month of the date of passing of the order.

Submitted.

20/16/8

MHA/IS(D.III)

St no. II(R) p-77-170/e Reference pre-page

V p-70-72/e.

The Central Government Standing Counsel had intimated that in writ pet Ition 281/98 Rudra Jyoti Bhattacharjee & Anr. Vs. UOI, the Calcutta High Court have passed the following order:-

If anybody declares Netaji as a war criminal he will be declared as a traiter. No publication regarding Netaji's death without any authenticity. An enquiry commission to be constituted regarding Netaji's death.

Earlier we had received a copy of the writ petition from the Counsel stating that the writ petition (un-numbered) filed by Shri Rudra Jyoti Bhattacharjee will come up for hearing on 16.2.98. The reference was received in this Ministry on 9.3.98 and portions of the writ petition furnished by the Counsel were illegible, we had therefore requested the Counsel that the clear copy of the petition to be sent to this Ministry and also to intimate to us whether the writ petition filed has been admitted by the court. However no response was received from the Counsel.

- 2. Subsequent to the receipt of the order we had requested the Counsel again to furnish the certified copy of the court order and the Counsel has intimated in FR that certified copy of the dictated order/judgement dated 30.4.98 has not yet been received and the same will be sent to this Ministry on receipt from the court. It has also been intimated that a supplementary affidavit has also been filed by the petitioner in this case. It is for orders whether we may request the Counsel to seek extension of time from court for filing a review application.
- Defence, Ministry of HRD, Ministry of External Affaairs and the Asiatic Society have been impleaded, in that order. The suplementary affidavit may please be seen in this regard. The thrust of the petition is clearly against the Ministry of HRD in so far as text book of the history prescribed for class IX written by Shri Bipan Chandra and published by the centre for Cultural Resources and Training, an autonomous organisation under the Deptt. of Culture contained reference of the alleged death news of Netaji on 18.8.45 and against the Ministry of External Affairs in so far as apathy and lack of cooperation in coordinating Govt. of Russia to unfold the mystery as alleged by the petitioner. The thrust of the main petition is also against Ministry of External Affairs, Ministry of HRD and Ministry of Defence. Prayers made by the petitioner in this regard may please be seen. We have already requested Deptt. of Culture, Ministry of HRD, and Ministry of External Affairs to intimate to us the action taken in this regard as the Central Govt. Standing Counsel has also addressed to the Ministry of HRD and MEA in this regard.

+ p-137-139/e.

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DS(15-1) We must report our starting Comsel (1. der

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SO(D-III) Paris you.

MHA/IS(D.III)

FR: Notes at pre-pages will also recall. The Central Government Standing Counsel had intimated that writ petition No. 281/98 Rudra Jyoti Bhattachariee & Anr. Vs. Union of India Calcutta High Court had passed an order regarding setting up of an enquiry commission to probe into Netaji's death.

2. The Counsel has now furnished a certified copy of the judgement. The directions given by the court may please be seen at P. 184-185/C.

Direction (1):The court has directed that respondent i.e. Union of India shall launch a vigorous inquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to the controversy:

a) whether Netaji Subhash Chandra Bose is dead or alive:

b) if he is dead whether he died in the place crash, as alleged;

c) whether the ashes in the Japanese temple are ashes of Netaji;

d) whether he has died in any other manner at any other place and, if so, when and how?

e) if he is alive, in respect of his whereabouts.

- 2. The court has also ordered the Government to follow the directions of the court given in writ petition No. 1805/97 for the said purpose to take the people of India in confidence. It may be mentioned that certified copy of the order has not yet been received from the counsel in the aforestated writ petition. The other directions pertain to the Deptt. of Culture.
- 3. The Counsel while forwarding the copy of the certified order has intimated that the time limit for filing a review petition is 30 days from the date of judgement. Going by the counsel's statement the time for filing a review petition has already lapsed. However it may be mentioned that certified copy of the order was received on 29.6.98. Law Ministry may have to be consulted in this regard.
- 4. As regards the body of the order, it appears the directions to launch a fresh investigation into the death of Netaji has been based on premise that the official stand of the Govt. of India is that: not-withstanding the reports of the Inquiry Committee/Commissions there are doubts as to the death of Netaji and there is a need to have a further probe and inquiry to conclusively establish that Netaji had died in plane crash. The court has observed that inspite of this being the official stand of the Govt no further/fresh inquiry was held in the matter. The

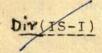
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v'F' at p-183/c.

inference about the Govt's stand appears to have been drawn from the then Prime Minister Shri Morarji Desai's statement in the Lok Sabha in 1978 and also by the plea taken by the Govt counsel in this regard. The court has noted that there is no positive attempt and serious effort in following up Prime Minister's statement.

the stand because no directions as such were given to her. As regards, Prime Minister's statement the same has been quoted incorrectly in so far as the Prime Minister had stated that though in view of certain doubts and contradictions in the two inquiry reports no useful purpose would be served by having any further inquiry. In fact the stand of the Govt. had all along been that no useful purpose would be certified by holding yet another inquiry into the death of Netaji. The factual position in regard to Commissions/Committees of Inquiry in this regard may please be seen at flag"X". Law Ministry's oipinion may also have to be taken regarding feasibility of filing review application against the directions to hold a fresh inquiry in view of the fact that the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality. Consider the conclusions arrived at are not based on the actuality.

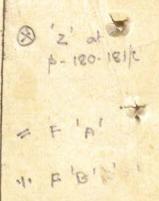


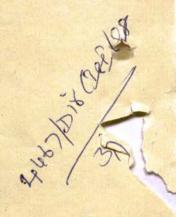


URGENT.

The basic position of the subject matter narrated in the above note of SO-D(III) may first kindly be glanced Precisely speaking, the subject matter in through. question is a judgement of the Hon'ble High Court at Calcutta on the death mystery of Netaji Subhas Chandra Bose. The judgement has emanated from Writ Petition No.281 of 1998 filed by one Shri Rudra Jyoti Bhattacharjee and Anr. Gentleman Vs Union of India and others in the form of a Public Interest Litigation. Despite finding it difficult to pick-up the threads of this Public Interest Litigation, the Hon'ble High Court has given a judgement asking the Government of India to probe afresh the mysterious disapprearance of Netaji Subhas Chandra Bose. From a close reading of entire judgement, we also find that the Hon'ble Judges of Calcutta High Court have found no merit in many of the submissions of the petitioner and have, infact, expressed some sort of indignation at the persistance of the petitioner harping on the some point. Still, the Hon'ble Court has finally felt inclined to direct the respondents (Government of India) to launch a vigorous enquiry in accordance with Law by appointing, if necessary, a Commission of Enquiry as a special case for the purpose of giving an end to the controversy on:-

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead whether he died in the plane crash, as alleged;
- (c) whether the ashes in the Japanese Temple are ashes of Netaji;





- (d) whether he has died in any other manner at any other place, if so, when and how;
- (e) if he is alive, in respect of his whereabouts.
- The Hon'ble Court has also directed that the respondents shall follow for the said purpose, the directions of this Hon'ble Court given in Writ Petition No.1805 of 1997 namely, to take the people of India in confidence. Though we are yet to have a copy of judgement of this Hon'ble Court in Writ Petition No.1805 of 1997, yet the position is clear and the sum and substance of the matter is that there has to be another effort towards enquiry and the whole matter of Netaji's mysterious disappearance has to be looked into afresh to set all doubts at rest.
- 3. Two other directions of the Calcutta High Court are as follows:-
 - (a) Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of violence;
 - (b) Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above.
- 4. The petitioner wanted the following in his Public Interest Litigation and made appropriate prayer to the Hon'ble High Court:-
 - (a) to classify(the word 'classify' should perhaps be 'declassify') and disclose all documents related to Netaji Subhas Chandra Bose including the Indian National Army;
 - (b) to make a categorical statement as to whether the name of Netaji was and still is in the list of war criminals drawn-up after the 2nd world war and issue a Press Communique to the said effect.
 - (c) not to allow any agency or publisher or any person to publish the story of death of Netaji Subhas Chandra Bose in the alleged plane crash on 18.8.1945;
 - (d) to disclose the stand of the Government of India regarding Netaji Subhas Chandra Bose if he is found on Indian soil- whether Government of India will welcome him or hand over him to the allied forces for trial as war criminal and make a press communique to the effect; and

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- (e) to produce and or transmit all the records, files and documents about disappearance of Netaji Subhas Chandra Bose since August 18, 1945 and subsequent thereto.
- The petitioner has taken the plea that while filing this petition he was echoing the sentiments of a multitude of Indians. The petitioner in his petition has taken shelter of former late Prime Minister Morarji Desai's statement in Parliament on 28th August, 1978 in which he had mentioned that following the reports of Shah Nawaz Committee and the Khosla Commission of Enquiry on Netaji Subhas Chandra Bose's death, reasonable doubts had been cast on the correctness of the two reports and in the light of those doubts and contradictions, the Government found it difficult to accept that the earlier conclusions were decisive. Relying on this particular statement of late Shri Morarji Desai, the petitioner felt that this statement of then Prime Minister of India was a virtual and simultaneous burial of the Netaji Enquiry Committee and the Enquiry Commission reports. The petitioner has also tried to build his case for re-opening of Netaji's disappearance issue because of the reluctance of the Government of India to bring back the alleged ashes of Netaji from Renkoji Temple, Japan to India.
- 6, Similarly in order to sustain his claim that the Government of India still considers Netaji as a war criminal, the petitioner has mentioned that the then Government of India (British) after the 2nd World War declared Netaji as a war criminal and following the independence and almost simultaneously to India's taking a seat/place in the United Nations Organisation ratified and agreed that war criminals of friedly countries would be delivered by the country holding them; thus agreeing that India would deliver all war criminals of the 2nd World War to the Government of Great Britain.
- Analysing the submissions made by the Petitioner, the Hon'ble High Court of Calcutta has first of all drawn attention towards its own judgement in Writ Petition No.1805 of 1997 delivered on 7th April, 1998. This peition was filed as vox populi when newspapers like the 'Bartman' in its publication of 23rd August, 1997 and 'Anand Bazar' in its publication of 27th August, 1997 published/reported that the then Defence Minister had stated that he would bring the ashes of Shri Subhas Chandra Bose from Renkoji Temple of Japan. In that judgement, the Court directed that before accepting ashes which are allegedly kept at the Renkoji Temple, Japan as that of Netaji Subhas Chandra Bose, the Government of India, shall obtain full particulars and evidence and satisfy itself about the genuineness of the claim that the ashes kept at Renkoji Temple of Japan are that of Netaji Subhas Chandra Bose and take the people of India in confidence.
- 8. Elaborating on the issue further, the Hon'ble High Court has observed that from the attitude of the Government of India on the issue of ashes, the Government of India is almost accepting that Netaji has died and his ashes are being brought to India. The High Court has felt that against this view of the Government, answer has been

given by the court in the form of judgement in W.P. No.1805 of 1997 on 7th April, 1998. The Court has further observed that what needs to be clarified for all concerned to bear in mind is that the Government of India did realise that full facts and evidence were required to be gathered from every person and place and it appointed first the Enquiry Committee and next Enquiry Commission. After the reports of the Committee and the Commission were submitted, the then Prime Minister made categorical statement in the Lok Sabha that since the reports, reasonable doubts have been cast on their correctness, various important contradictions are noticed in the testimony of the witnesses and further contemporary official documentary reports have become available, "in the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclusions are decisive."

- 9. The Court has observed that official stand of the Government as expressed in the Lok Sabha on 28.8.1978 is reiterated on 11.4.1979 by the then Minister for State of Home Affairs on the question of bringing back the ashes as per the request of General Fujiwara of Japan. Two deviations/aberrations, however, occured first when Government of India intended to honour Shri Subhas Chandra Bose by conferring 'Bharat Ratna' Award and used in the press Communique the expression 'posthumously' and secondly recount by Defence Minister of the country made a statement that Government of India intended to accept the factum of death of Subhas Chandra Bose and bring the ashes which are stacked and kept at Renkoji Temple in Japan.
- 10. Other important observations which have been made by the Hon'ble Court on the subject are as under:-
 - (a) India became independent on 15th August, 1947 with Dominion Status in the British Empire. However, people of India resolved to constitute it into a Republic and the same became effective wef. 26th Jan, 1950. Following establishment of Republic, India unsackled itself from the yoke of past to start afresh with the goal of justice, Liberty of thought, expression belief, etc. Consequently, the status Netaji Subhas Chandra Bose enjoys in the Indian Republic is that of a person who is a Bharat Ratna.
 - official stand of the Government of (b) India is that notwithstanding the reports of the Enquiry Committee and the Commission of Enquiry, there are doubts as to the death of Netaji in a manner as reports indicated and that there was/is a need to have further probe and enquiry to conclusively establish that Netaji has died, that he died in the plane crash, as alleged, and that his ashes are lying in some temple in Japan. With such specific stand when the Government has informed the Parliament more than once and no further enquiry or probe has yet been is beyond imagination it Government of India without further or fresh enquiry and/or probe would accept the factum of death of Netaji Subhas and/or of the alleged air-crash death and/or the ashes being kept at a temple in Japan.
 - (c) Learned Counsel for the respondents has categorically assured the Court that the Government of India has been maintained and

is maintaining even now that further/fresh enquiry/probe is required and the information that Netaji died in the plane crash on August 18, 1945 is full of loopholes, contradictions and therefore inconclusive.

(d) It is difficult to perceive why the petitioner has been harping on Netaji being a war criminal for the Indian Republic. For Indians, he was a Freedom Fighter. Netaji Subhas Chandra Bose had launched his own war for independence of India, formed Indian National Army, marched ahead to free the people of India from subjugation and reached Indian Territory of the Andaman and Kohima, Manipur. His was an Army of Indians, for the Indians and for the Independence of India. Such a Hero, however, when India achieved its Independence was mysteriously missing. It (India) has been waiting to welcome its Hero. He has, however, not been found yet.

People in India are not going, it is clear from the aforementioned events, to accept that their Hero who led the first National Army is dead unless they are convinced after seeing conclusive evidence in this regard. Who then will call Netaji a war criminal? Any Indian public except a traitor, a person who does not have the defence and love for the country and its heros alone can do so. We do not have any hesitation in concluding that the statements in documents which are lying in archives which are to the effect that Netaji is a war criminal and all persons who have beeing saying such a thing are relies of British Raj.

- (e) Referring to the point mentioned in (d), the Court has held that it finds no reason why any Rule be issued to de-classify and disclose all documents relating to Netaji Subhas Chandra Bose including Indian National Army untill such inquiry as is derived is held. De-classification and disclosure of the contents of sensitive documents cannot be insisted upon unless one is satisfied that such disclosure would not be against the interest of the sovereignty and integrity of India, the security of the States, friendly relations with foreign States, Public Order, decency or morality or in relation to contempt of court or defamation or would not call incitement to an offence (see Article 19 of the Constitution) and if made would not harm the public interest. The Court has also not found any reason as to require any statement from the respondents, whether Netaji Subhas Chandra Bose is still in the list of war criminals drawn after the 2nd world war.
- (f) The Court has also held that it is difficult to imagine how any Indian would think that Netaji would not be welcome on the Indian soil when Indians hold him amongst the best a few sons of India.

(g) The most pertinent point which the Court has made is as under:-

"we are inclined however to take notice of one aspect of the matter: There has been no positive positive attempt it seems after the statement by the Prime Minister in the year 1978 and by the Minister of State for Home Affairs in 1979 that the findings in the reports of Netaji Enquiry Committee and Commission of Enquiry were not conclusive and decisive for any further or fresh enquiry and no serious efforts in this behalf has been made. It seems lapses have occured from time to time and public at large is dissatisfied. It is, therefore, necessary that respondents are told that their silence may not be appreciated in the matter and they for obvious reasons, as indicated above, should proceed in some effective manner to enquire into circumstances of the death, whether Netaji has died and if he is alive where is he, with due despatch. Various publications some saying Netaji has died, some saying-No, he had not, some accepting the plane crash story, some not accepting it, some suggesting that the ashes in the temple in Japan are that of Netaji and others not accepting, some believing, and seriously, that Netaji is still alive and is available in some part of the world cause confusion and sometimes irritation and anger in public. No publication which would affect the friendly relations with foreign States, public order, the sovereignty and integrity of India, cause defamation or incitement to an offence should be permitted. We have reasons to think that such irresponsible publications do sometimes affect public order and cause incitement to violence.

(h) In respect of the other contention of the petitioner regarding proscription of some publications which are per se defamatory to the National Hero Subhas Chandra Bose, the Hon'ble Court has made the following observations:-

"One of the most cherished rights of the Indians is the freedom of speech and expression, yet it is important that this right is not exercised to disturb public order or cause incitement to offence or defamation. We have not, however seen such publications as a whole except such excerpts which are quoted by the petitioner for forming any conclusive opinion that books

already published need to be prescribed. yet we are satisfied that there is a need to give a fesh look to such publications and proscribe such books or such portion of the books which spent one way or the other on the subject of the death of Netaji Subhas Chandra Bose's pre-independent activities in respect of which the Government of India is yet to complete enquiry. All fresh or new publications, in our view, shall also need a similar scrutiny and all such scrutiny shall be made keeping in view Article 19(1) (a) read with Article 19(2) of the Constitution of India and the observations made above".

- 11. In the final analysis, the directions of the High Court at Calcutta are to the following Hon'ble effect:-
 - (1) Respondents shall launch a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Enquiry as a special case for the purpose of giving an end to the controversy
 - (a) whether Netaji Subhas Chandra Bose is dead or alive;
 - (b) if he is dead whether he died in the plane crash, as alleged;(c) whether the ashes in the Japanese temple are ashes of Netaji;

 - (d) whether he has died in any other manner at any other place and, if so, when and how;
 - (e) if he is alive, in respect whereabouts.
 - (2) The respondents shall follow for the said purpose the directions of this COurt given in W.P. No.1805 of 1997 namely, to take the people of India in confidence;
 - appropriate level Respondents shall at examine/scrutinise all publications pertaining to the matter as above and prescribe, if nfecessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of violence;
 - (4) Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above.
- We, thus find that the Court has asked for two definite things:-

- (a) To launch a vigorous enquiry once again on the mysterious disappearance of Netaji Subhas Chandra Bose; and
- (b) the same vigorous enquiry can even be through a Commission of Enquiry, if, it is felt necessary.

The Court has not prescribed any time limit for initiating the process on for conflecting the same.

- 13. The language of the directions of the Court in this regard gives us options: either to go ahead with a serious administrative enquiry taking into consideration all papers, documents, records all over the world and by seeking necessary assistance from all possible and concerned quarters. The other option is to once again launch a Commission of Enquiry to find out if any new material comes forth at this stage to satisfy the people of India on the subject if at all that satisfaction is actually a ground reality in India after more than 50 years of Netaji's disappearance. The felt need of a particular situation is not only be assessed emotionally, but pragmatically as well. It is no doubt apparent from a close analysis of the stand point of the Government that Former Prime Minister Shri Morarji Desai had not closed the chapter of Netaji's disappearance in a very clinching manner. He had found faults with the results of the earlier probes on the subject, but had still found himself unable to agree with Mr. Samar Guha for yet another probe. In other words, Former Prime Minister's action could be said to be a defensive strategy to bury the problem in a decent manner. But this remained a catch in the political set-up of the country and the Forward Block Leadership, thereafter continued to harp on this matter one way or the other to force Government of India's hand for yet another enquiry.
- 14, Subsequent Governments at the Centre did not mention categorically to the people of India that the issue pertaining to Netaji's disappearance should be treated as a close chapter with all the dignity if deserves. The practical circumstances and the ground reality should perhaps have found a clear and categorical mention from the Government to clinch the issue in proper perspective. But things did not happen on these lines and when the question of bringing back Netaji's ashes from Renkoji Temple in Japan was taken up once again there was considerable hesitation on the part of the Government to take a particular stand once for all.
- 15. Maintaining status quo was found to be a viable and convenient alternative and once again things drifted to the dis-advantage of the Government. The problem which was dormant once again became alive and some people tried to derieve focussed attention on themselves by raking up this emotive issue little realising that country had no real solution in hand at this later stage, whatever could be the merit of the same. Even on the issue of conferment of 'Bharat Ratna' on Netaji Subhas Chandra Bose, the Hon'ble Supreme Court's judgement did not help the Government of India and the controversy whether Netaji Subhas Chandra Bose is dead or alive, remained on the surface.
- 16. By no stretch of imagination we can conclude today that Netaji is alive. Even if by any divine

circumstances, we come to know that Netaji was alive after 1945 and died at a subsequent stage, unearthing of such a fact with convincing arguments will be a equally difficult proposition and the process will have no logical ending. It is, therefore, for the Government to decide as to what sort of enquiry the Government proposes to launch to comply with the directions of the Calcutta High Court. Keeping in view the view point of the Hon'ble Supreme Court in the famous case for the conferment of Bharat Ratna on Netaji Subhas Chandra Bose, a rather non-committal attitude of the Government of India so far on the issue of Netaji's disappearance from out midst, the defensive stand point of the Government on the issue relating to Netaji's alleged ashes in Renkoji Temple in Japan and the two recent judgements of Calcutta High Court and finally the persistent efforts of certain quarter, particularly Forward Block to go in for a third enquiry, it appears that there is no alternative, but to launch a vigorous enquiry once again and for all.

- 17. This enquiry can best be a serious administrative enquiry to find out missing links, if any, in the papers/documents already on record. This enquiry should be in a nature of a Fact Finding Mission and should consist of really knowledgeable and dedicated people who have capability of going into the depth of any subject.
- 18. As per the other issue of scrutinising all publications which appear to touch the question of death or otherwise in respect of Netaji is concerned, action has to be taken initially by the Ministry of Human Resources Development. Only such publications which can have the effect of disturbing the public, order have to be lined-up for appropriate legal action. Similarly, it will be for the Ministry of HRD to inform all Publication Houses to obtain its prior permission before any publication on the subject of the Netaji's death or otherwise is taken up. That Ministry will be needed to scrutinise the contents of such matters before granting any such permission. As the Ministry of HRD has been one of the respondents to this public interest litigation alongwith Ministry of Defence, Ministry of Home Affairs, Ministry of External Affairs and the Asiatic Society, Calcutta, it will be for the Ministry of HRD to respond further in the matter in this issue. As and when any reference is received from the Ministry of HRD in respect of any publication based on the observations/directions of the Hon'ble High Court, the Ministry of Home Affairs will surely examine the reference/references for appropriate remedial action. The Line of treatment which is to be given by the Ministry of HRD in respect of the 2nd issue may also be conveyed by us to the Ministry of HRD for the purposes of record.

19. Incidentally, I would also like to record here that this subject has figured in discussions with JS(IS-I) and SS(ISP). Even while, finalising response to a Starred Parliament Question last week on Netaji's death mystery, the subject had come-up for discussion. A mention was also made to the Hon'ble Home Minister during the briefing session for the question.

B

20. From the copy of the judgement sent by Smt. S. Bhattacharyya, Central Government Advocate, to us vide her letter dated 26th June, 1998 (at Flag 'C'), it is apparent that though the judgement is dated 30th April, yet the judgement was completed only on 16.6.1998 and the copy of the judgement was made available only on 25th June, 1998. These facts stand recorded in the copy of the judgement itself.

21. I am now submitting this detailed Note for further appropriate move/directions of the Government in relation to all aspects and particularly in respect of 'A' and 'B' of my note at page 15/ante.

(A.K. PAITANDY) Director (IS-I)

JS(15,1)

hay kindly see the notes from fgs. 7-16/N.

Fara 11 of the note at fg. 13/N lists the directions

of the Hon'ble Calcutta High Court in the matter

Dir (15-1) has suggested an administrative enquiry

into the matter to find out the mixing links

from the documents already on record.

The other option would be to contest the

slecivion either by way of revision or appeal.

Langta Javola.

SS(SP)

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Div (18-1)

This has already been discussed with SS(ISP) when JS(IS-I) was also present. My comprehensive Note already explains the position. SS(ISP) has also felt

that having regard to the overall facts of the case the best course of action will be to launch a serious administrative enquiry in the nature of Fact Finding Mission. I am now submitting this file back to SS(ISP).

(A.K. PAITANDY)
Director (IS-I)
10.8.1998

JS(15-1)
SS(15P)

Langita Gairola 10.8.98

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Advice 'A' Section

विधि न्याय और कन्ध्वी कार्य संभालय Min. of Law, Justice & C. A. Deptt. of Legal Affairs)

Advice A Section 8

Advice A Section 8

Advice A Section 8 (विधि कार्य विभाग)

The reference made to us by MHA relates to the judgement dated 30.4.1998 in W.P. No.281/1998 delivered by the Division Bench of the Hon'ble High Court of Calcutta. In this judgement the Hon'ble Court examined a Public Interest Litigation (PIL) regarding controversy on the death of Netaji Subhash Chandra Bose. It appears to us that MHA is one of the respondents. At pp.13-14 of the judgement the following directions have been given by the Hon'ble Court.

- (1) Respondents shall launch a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Enquiry as a special case for the purpose of giving an end to the controversy
- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead whether he died in the planes crash, as alleged;
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how?
- (e) if he is alive, in respect of his whereabouts.
- (2) The Respondents shall follow for the said purpose the directions of this Court given in W.P.No.1805 of 1997 namely, to take the people of India in confidence;
- (3) Respondents shall at appropriate level examine/scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of vidlence;
- (4) Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above.
- 2. While making this reference MHA has not indicated any specific issue which is required to be examined by us. However, it appears from the pre-note pages that MHA is of the view that a serious administrative enquiry in the nature of fact-finding mission should be launched in compliance with the judgement of the Court. We are of the view that such a course would be appropriate.

(DR.SANTOKH SINGH)
DEPUTY LEGAL ADVISER
17.8.1998

Mindstry of Home Affairs

By. No. 3100/98 ' Hanny 17/8/9 8

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Ministry of Home Affairs

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My detailed note from the second half of page 7/n to 17/n explains the entire case in a very-very comprehensive manner. SS(ISP) had sought the advice of Law Department on the issue. The opinion of the Law Department is at page 18/n in which they have said that our proposal of a serious administrative enquiry in the nature of a fact-finding mission shall be appropriate.

2. We now need formal decision in the matter. The case is, therefore, re-submitted to SS(ISP) for further line of direction. We need orders of HS/hon'ble HM for clinching the issue in proper perspective. As the matter is of national importance, orders of hon'ble PM may also kindly be sought. Regarding the constitution of the Administrative Committee in the nature of a fact-finding mission, we shall have to take senior and knowlageable representatives from the Ministry of External Affairs, Ministry of Defence, Ministry of Home Affairs, Ministry of Human Resources Development, Cabinet Secretariat (R&AW) and Intelligence Bureau. Some eminent men who were closely associated with Netaji Subhas Chandra Bose or some public figures who have been pursuing the 'alleged mysterious disappearance' of Netaji may also be made members of this Committee so that there is no scope for further misgivings on any Count and the matter is clinched once for all.

(A.K. PAITANDY)
Director (IS-I)
24.8.98

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Ref: SS(ISP) minutes recorded/pasted on pre-page for adding files and letters from H.S. to some eminent respectables to elicit their cooperation in the matter of bringing the ashes from Tokyo.

In this connection, it may be stated that although a decision was taken with the approval of H.M. that H.S. would first of all discuss the matter with Col. Dhillon and Capt. Sehgal and then he would come up with specific proposal about holding a dialogue with the family members, relatives of Netaji and other interested groups as well as opinion makers, but no letter has so far been addressed to the above persons.

As a matter of fact, two drafts were proposed and put up by Dir(IS.I) on 5.6.98. The file was submitted to H.S. on 16.6.98 but it was not considered necessary to issue these letters and was subsequently desired by JS(IS.I) on 2.7.98 that the file may be kept in 'T' Branch for the present. In this connection, relevant portions of F. No.I/13012/165/95/IS(D.III) at pp 16-18/ante.(F/X) may kindly be seen for perusal please.

Submitted.

Mhawhi 19198.

Dir (181)

reflected position with reference to SS(ISP)'s observations available at page 19/N in a separate sheet of paper (pasted on page 19/N). All the files pertaining to Netaji Subhash Chandra Bose and available in the T Branch have been placed below. As will be revealed from the note of SO(D.III) above, no formal letter has yet gone from HS to some eminent respectables to elicit their cooperation in the matter for bringing the ashes from Tokyo. It is also right that concrete move has not yet been made in this direction because too many conflicting references have been coming from various quarters relating to this issue and now even Calcutta High Court has passed two judgements calling for fresh enquiry into the mystery of Netaji's disappearance before taking any view on the ashes etc.

2. While Prof. Samar Guha, former Member of Parliament has been pursuing this subject, another Hon'ble Member of Parliament Shri Debabrata Biswas has sent yet another letter to Hon'ble Home Minister calling for a fresh enquiry. HM has already assured Shri Samar Guha vide his letter dated 8th May, 1998 in the file placed below (No.I/13012/165/95-IS D.III) that he would meet PM to discuss this matter. Hence as far as Shri Samar Guha's letter is concerned, there is clearly no further need to get into any further exchange of letters. On the letter of Shri Debabrata Biswas it can be said that it is

Flag'M'

the same issue which has been raised. A draft interim reply from HM to Shri Debabrata Biswas has been added at flag 'B'.

As too many communications keep coming on the same subject every now and then it becomes very difficult to deal with the same matter again and again in different files. I would, therefore, request that once for all a final decision may please be taken in the light of the directions of Hon'ble Calcutta High Court. My detailed note from pages 7-19/N is absolutely comprehensive to cover all areas in proper perspective.

> (A.K.Paitandy) Director(IS.I) 2.9.98

SS(ISP) Thro'T Branch

SS(ISP) discussed this subject again with us yesterday (F.N). On the lines discussed, I have added a draft of the possible 'Order' of the Government of India which can take care of the requirements like terms of reference, functional role of the Committee, the Department/Ministry which will meet its expenditure etc. Needless to mention that the constitution of this Administrative Committee will have to be decided at the higher level. I have already given a possible line up of the Ministries/Agencies which should figure in such a Committee (page 19/n).

> (A.K. PAITANDY) Director (IS-I)

Xangila Gariola

Page 22/2

As news of Netaji's death was not believed to be credible, government in April, 1956, instituted an enquiry to ascertain the truth. Shri Shah Nawaz Khan conducted this enquiry and held that Netaji had indeed died. was not accepted. In July, 1970, government instituted a judicial enquiry under Justice G.D. Khosla. His finding was similar. But that too did not find universal acceptance. Shri Samar Guha, MP raised this matter in the Lok Sabha demanding another enquiry. In 1978 Shri Morarji Desai, then PM, responding to this stated that even though two enquiries had not answered all questions it would not be necessary to institute any further enquiries. There the matter rested. Much later rose the question of bringing back Netaji's ashes from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one J. Bhattacharya of Calcutta filed a Writ Petition demanding a fresh enquiry into this matter. The Calcutta High Court in its judgement (flag 'X') directed that a vigorous enquiry be launched by appointing, if necessary a Commission of Enquiry and its suggested terms of reference are at para ll(i)(a) to (e) of on P.13/n ante. The Law Ministry's opinion on this has been obtained. May please see paras 1 & 2 of page 18/n ante. A serious fact finding can serve the purpose. A draft of the proposed order constituting this enquiry is placed at flag 'O' for approval.

2. S/Shri Samar Guha and Debabrata Biswas, MP, have sought a fresh enquiry. HM's reply to Shri Guha is at P 46/Cor. of the linked file No. F.I/13012/165/95-IS D.III(Flag 'Y'). A reply to Shri Biswas is to go for which a draft(DFA) is placed for HM's approval.

(NIKHIL KUMAR) SPECIAL SECRETARY(ISP) 15.9.1998

T-468/HS/98
16/9/98

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The Calcutta High Court in its judgement dated 30 April 1998 has inter-alia directed that the Central Government "shall launch a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to the controversy

- (a) whether Netaji Subhas Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash, as alleged;

- (c) whether the ashes in the Japanese Temple are ashes of Netaji:
- (d) whether he has died in any other manner at any other place and if so, when and how;
- (e) if he is alive, in respect of his whereabouts."
- 2. In arriving at its conclusions, the Hon'ble Court has depended heavily on the following statement made in the Parliament by the then Prime Minister Shri Morarji Desai on August 28, 1978:

"Mr. Chairman, Sir, I may differ sometimes from hon. friend, Mr. Samar Guha, but I can never doubt, even in my sleep, his sincerity. I have great admiration for the dedication with which he is pursuing this cause and yet we have to be realistic in this matter.

There have been two enquiries into the report of the death of Netaji Subhas Chandra Bose in the air-crash on 18th August 1945 at Taihoku airfield during his air-journey to Manchuria, one by a Committee presided over by Maj. General Shah Nawaz Khan and the second by a one-man Committee of enquiry headed by Shri G.D. Khosla, retired Judge of the Punjab High Court. Majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on correctness of the conclusions reached in the two reports and various important contradictions in the testimony of witnesses have been noticed, further contemporary official documentary records have also become available. In the light of those and contradictions and those Government find it difficult to accept that earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my hon. friend will withdraw his motion."

3. As brought out above, there have been two enquiries into the reported death of Netaji Subhas Chandra Bose.

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Both the enquiries concluded that Netaji had died in the plane crash of August 1945. The stand of the Government of India has, therefore, been that there is no need for a further enquiry into the matter. Against this background, efforts have also been afoot to build public opinion in favour of bringing back the "ashes" of Netaji kept at Renkoji Temple in Japan. In fact, in this connection, HM had earlier (in May 1998) approved my proposal to hold consultations with ex-INA heroes like Col. G.S. Dhillon and Col. Laxmi Sehgal and to come up specific proposals. However, despite repeated efforts it has not been possible to have both Col. G.S. Dhillon and Col. Laxmi Sehgal together for the said consultation; for their own reasons, neither of them wishes to discuss this sensitive issue individually.

- I feel that the nature and mechanism of the new "enquiry" as ordered by the Calcutta High Court should be decided by the Government after consulting a Committee of eminent 'opinion-makers' on the subject like
- (i) Col. G.S. Dhillon,
- (ii) Col. Laxmi Sehgal,
- (iii) Dr. Sisir Kumar Bose,
- (iv) Prof. Samar Guha,
- (v) Prof. Madhu Dandavate,
- (vi) Justice (Retd.) R.S. Narula,
- (vii) Shri Somnath Chatterjee,
- (viii) Shri D.B. Kalmankar,
- (ix) Shri Brajesh Mishra, Pr. Secy. to PM
- Shri Soli Sorabji, Attorney General of India and
- (xi) Shri R.L. Meena, Law Secretary.
- In view of the political importance of the subject and the status of persons being invited, HM may consider to take a meeting on the subject at his convenience. A brief agenda paper along with a copy of the judgement of the Calcutta High Court will be sent to the invitees to enable them to appreciate the significance of the meeting and to contribute therein. We may also make suitable arrangements for travel and stay in Delhi in respect of Col. G.S. Dhillon, Col. Laxmi Sehgal and Prof. Samar Guha and others who may seek such support.

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31.12.98

Home Secretary

This was discussed with HM.

2. He has approved the proposal to hold a meeting at 12.00 Noon on 15.1.1999 in his room. Please inform all concerned and make necessary arrangements.

> (B.P. Singh) Home Secretary 8.1.1999

When contacted over the telephone, Col. Dhillon and Dr. Sixis Bose, beth expressed their inability to allerd on the 15th January, due to different reasons. They expressed that a date in the second week of February would be more convenient. Prof. Lawar guha indicated that he is too ill to come to Delhi, but it willing to send his views, if so requested. Col darni Sehgal ie away in Chennai at present.

The matter was discussed with H.S. Since participation of the above persons in the neeting is central, we may request H.M. to kindly agree to fix a date in the second week of

tebruary, if convenient to him.

Sangita Gairola 12.1.99

12.1.1999 12.1.1999

HS. Through F Branch

The matter was discussed with H.M. today. He

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has agreed to convene the meeting at 11 00 am on 23.3.99.

Agenda note may be put up imm-along with meeting notices to all concerned as in para 4 on Pg. 24/N.

Languta Javrola
9.3.99.

Dist(IS-I)

Most Immediate

All aspects of the meeting convened by Home Minister in his Chamber on 24th March, 1999 at 12.00 P.M. instead of 23rd March, 1999 have been carefully discussed with JS(IS.I). With the help of MHA Control Room postal address, telephone numbers, fax numbers, close contact points of Col. G.S.Dhillon, Col. Laxmi Sehgal, Dr. Sisir Kumar Bose, Prof. Samar Guha, Prof. Madhu Dandavate, Justice (Retd.) R.S.Narula, Shri Somnath Chatterjee, M.P., Sh. D.B.Kalmankar, Chairman, Legislative Council, Government of Karnataka, Bangaalore have been ascertained. Necessary contact addresses for Shri Brajesh Mishra, Principal Secretary to Prime Minister, Sh. Soli Sorabji, Attorney General of India and Shri R.L.Meena, Law Secretary have also been gathered. A copy incorporating these details has been placed in this file at flag 'X' for ready reference.

- 2. Home Secretary in his note at page 24/N (para 4) has indicated that these 'eminent personalities' need to be consulted to decide upon the 'nature and mechanism' of the 'new enquiry' as ordered by the Calcutta High Court. Home Secretary has termed this group of eleven important persons as a Committee of eminent 'Opinion Makers'.
- 3. Consequently, we are on with the preliminary exercises to hold this meeting on 24th March,1999. For this purpose, yesterday afternoon telephonic contact has been established by JS(IS.I) with Prof. Samar Guha, Col. Laxmi Sehgal, Col. G.S.Dhillon and Dr. Sisir Kumar Bose. These eminent people have been approached on telephone to find out their convenience in an informal and cordial manner. Prof. Samar Guha has indicated that he is too ill at the moment to attend this meeting or even to send any written response. Col. Laxmi Sehgal reiterated her views that Netaji is no more and his ashes should be brought back to India. Col. G.S.Dhillon also expressed

about his indifferent health but indicated that he would try to attend the meeting provided some arrangements are made for him. We will be required to request Madhya Pradesh Government or Collector, Shivpuri particularly, to organise for Col. G.S.Dhillon's transport arrangement from Shivpuri to Airport while coming and again from Airport to Shivpuri while going back. In Delhi, his local address will be 6, Tilak Marg (14/C), his telephone No. will be 3388903. Dr. Sisir Kumar Bose who was also contacted said that he would consider coming.

- of a Now having regard to the requirement Meeting Notice and a brief Agenda Paper alongwith a copy judgement of the Calcutta High Court for the invitees, I have carefully assessed the basic need and, to my mind, the notice in this case should go in the form of a d.o.letter from Joint Secretary (IS.I) so that our response remains quite respectful and the purpose is achieved in a more pleasant manner. Accordingly, a draft d.o.letter is added for sending to all these eminent persons. JS(IS.I) may request IB to get the out station letters alongwith enclosures handed over through I.B. bag. In respect of Delhi addresses, the job can be attended to by our Wing Registry/MHA Control Room. As the d.o. communication itself is self-explanatory and we are also enclosing a copy of the judgement of the Calcutta High Court which again is self-explanatory, there is apparently no necessity for any other paper in the form of agenda. If at all necessary, a brief background note can be circulated by us in the meeting contents of the itself without prejudice to the judgement of the Calcutta High Court.
- 5. Another point which needs to be sorted out is about the suitable arrangements for travel and stay in Delhi in respect of Col. G.S.Dhillon, Col. Laxmi Sehgal, Dr. Sisir Kumar Bose and also Prof. Samar Guha in case he finally mix it. For these arrangements we will have to request JS(A) as was done by JS(IS.I) on 9.1.99. A draft communication to JS(A) in this connection is also added.
- 6. I now came on the issue relating to a notice received from Sh. R.J.Bhattacharjee, Advocate of the High Court of Calcutta inviting our attention to this judgement of Calcutta High Court and requesting us for compliance of the directions of the Division Bench of Calcutta High Court failing which he would move for the contempt proceedings. In this Notice dated 1.3.99 received at our end on 7.3.99, Mr. Bhattacharjee has requested four Respondents by name viz., Secretary, Department of Home Affairs, Secretary, Department of Defence, Secretary, Department of Education and Secretary, Department of External Affairs, Government of India for compliance of High Court's directions in the matter within four weeks from the date of receipt of this letter failing which he would presume that the Respondents are deliberately and wilfully ignoring and/or violating the order passed by the Hon'ble Court and he shall have no other alternative but to move

before the Hon'ble Court for contempt proceedings without any further reference to the Respondents.

- 7. Sh. K.Raghunath, Foreign Secretary has sent his copy of the Notice to the Home Secretary presuming that the Ministry of Home Affairs will be the nodal agency to coordinate a response in this matter. He has also indicated that MEA will give inputs, if required. Home Secretary has also received his copy of the notice on 5th March, 1999.
- 8. We need to give a response to the Learned Advocate. I find that while inviting our attention to the judgement of the Hon'ble Calcutta High Court, the Learned Advocate has also mentioned about two books namely 'Netaji was murdered in Red Fort' written by one Sh. Usha Ranjan Bhattacharjee and 'Modern India' written by Professor Bipan Chandra. The argument taken by the Learned Advocate is that these two books amongst many others contain alleged death news of Netaji Subhas Chandra Bose. It is difficult to read the mind of Learned Advocate and I am also at a loss to understand as to in what manner the Learned 'Advocate is interpreting the judgement of the Hon'ble Calcutta High Court in respect of the publications part touching the question of death or otherwise of Netaji.
- 9. The pointed issue as mentioned in the judgement is for examination of all publications in such an area which can have the effect of disturbing the public order and causing incitement to violence. There is no reference from any quarter so far whether these two books mentioned have the effect of disturbing the public order or are causing any incitement to violence anywhere. In any case the issue is so omnibus and the subject area is so vast that it will take quite some time to gather proper and valid impressions on this count and nothing can be done in haste.
- 10. Moreover, it is the main direction of the Calcutta High Court i.e. about a fresh vigorous enquiry on the issue of Netaji's disappearance which has to be taken care of first before getting into the second direction of the Court. In any case, it will be for the Deptt. of Education to throw adequate light on the publications issue and the basic task of scrutinising the publications pertaining to Netaji will have to be of the Deptt. of Education, Ministry of Human Resource Development, Government of India as also various Education Departments of States/Union Territories. The Ministry of Home Affairs will come in the picture if it is pointed out from any corner that any particular publication touches upon the question of death or otherwise of Netaji and the same has the effect of disturbing the public order and causing incitement to violence.
- 11. I would, therefore, suggest the following actions in respect of this contempt notice from the Learned Advocate:-

- (i) We should mention to the Learned Advocate in a simple letter that the 'Government has taken note of the judgement of Calcutta High Court in respect of Writ Petition No.281 of 1998 and is currently exercising its mind on the nature and mechanism of the new enquiry which can be feasible in the circumstances. All aspects need to be very carefully gone into because of the long background and sensitivity of the issues involved'.
- (ii) Department of Education, Ministry of Human Resource Development may be requested to come out with their response in respect of the second direction of the Hon'ble High Court on the issue of publications touching upon the question of death or otherwise of Netaji with particular reference to the mention of the two books in the letter of the Learned Advocate.
- (iii) At the same time we may make a reference to the State Governments/UT Administrations/Tto find out whether the two mentioned books are in any way having the effect of disturbing the public order or causing any incitement to violence.
- (iv) Finally, as the judgement of the Calcutta High Court is directed not only towards the Ministry of Home Affairs but the Ministry of Defence, Ministry of Human Resource Development and the Ministry of External Affairs as well, it shall be appropriate to invite Foreign Secretary, Secretary, Human Resource Development and Secretary, Defence, in the meeting slated for 24th March at the level of Union Home Minister. In the ultimate analysis, this is a common exercise to be undertaken by all the four Ministries of the Govt. of India to first set things in proper historical perspective and act accordingly in response to any future scenario.

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(A.K.Paitandy) Director (IS.I) 11.3.99

I have already submitted my clear and detailed note in all aspects(page 26-29/N). Hence, I am not adding anything further. The subject area has already been discussed at the level of SS(ISP), HS and SS(ISP) had already approved what has been mentioned in my note in respect of various issues.

A meeting has since been organised at the level of Home Minister on 25th March, 1999 at 12 P.M. This meeting will be attended by eminent opinion makers. Letters have already been despatched. JS(IS-I) is aware of the entire drill followed in this connection.

Now we are required to send an interim information to the Learned Advocate Shri Rudra Jyoti Bhattacharjee. Vide his letter dated 1.3.99 received by us on 5.3.99, he has requested us to comply with the directions of the Hon'ble High Court failing which he would move the Court for contempt proceedings. Hence, we need to apprise him that the Government is exercising its mind on the nature and mechanism of the new inquiry which can be feasible in the circumstances. A draft letter from JS(IS-I) to Mr. Bhattacharjee in this connection on the lines I have suggested in my note at page-29/N is added. This letter can be sent both by Speed Post as well as Registered Post to Shri Bhattacharjee. If necessary, there will be a telephonic mention to him also about the present status of the matter at the level of the Government. Kindly see for approval.

> (A.K. PAITANDY) Director (IS-I)

Langeta Garrola 19.3.99. staigeta fairola 19.3.99

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MHA/IS(D.III)

Reference preceeding notes

decision of the meeting dated HM with eminent personalities Following the by convened including Col.Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Shri D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and others and as well as Press Release regarding setting up of a fresh judicial inquiry to settle the controversy of Netaji's disappearance, a draft Note for Cabinet along with draft Notification is placed below for approval please.

> Allaukur : (M.S. ZUHA) 3/99 SECTION OFFICER

JS(IS+I)

Thank you through the hope and other relevant details. The matter discussed further with JS (IS.I). The dreft wheter Calinet many le sulmitted to HS/HM for approval before it goes to Colinet. 31.3.97 Director [15.4]

Naigita Gairola

03 (13-5)

Director former with hom Js(Is.I) and Ss(Isf).

Revised formulation of the draft Calinet

Note Covering almost all possible repeats

More has freeze be seen. Hait. 99

Dought recently discussion of the 25th meeting also

Director(Is.

Js(Is.I)

SS (ISP) The needing chained by Union Home Minister, and the obraft Cabinet Note are placed

below for kind approval. Langita Gairola 1-4-99 Se (ISP) 1 apr. 33 H.M. L. R. A. 4,290/1849a 1.4.99 Tulaa The hote has been approved by H.M. bee may it approved, send a copy to how Ministry for velting the note and the draft notification. I Sangita Gairola 1.4.99 SS(ISP) JS (S/I) \$ 1-4-99.

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Following further discussions with JS(IS-I)/SS(ISP) and the mention of Home Secretary on 5.4.99, I have since given a reformulation (at flag-A) of the first para of the proposed Cabinet Note. SS(ISP) has mentioned that he would do the needful now. At the same time, I have incorporated some changes which Home Secretary has desired in the draft Cabinet Note. I had also contacted the Home Secretary, Government of West Bengal on 5th April(AN) on the issue of Bengal State Assembly's Resolution and we have received a FAX message from Joint Secretary (Parliamentary Affairs Department), Government of West Bengal saying that the State Government recommends setting up of an inquiry into the mysterious disappearance of Netaji Subhas Chandra Bose. This paper has also been placed on record (at flag

Both the Ministry of Finance and the Ministry of Law have been reminded yesterday for expediting their response. The file may now please be submitted to SS(ISP) as has been desired by him.

> PAITANDY) Director (IS-I) 9.4.1999

Sangita Gairola

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May please see notings on the previous page. A draft Cabinet Note on the setting up of a Judicial Enquiry into Netaji's disappearance is placed for approval (DFA).

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Now ple incorporate views of Finance a faw Ministries & put up final Note for sending it to Cabinet.

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In Bhokia, US (D. IV) I have to you for your study.

Reference notes above.

2. Views/comments received from Ministry of Finance have been examined and the same have been duly incorporated alongwith this Ministry's clarification in Appendix VI to the Cabinet Note. Views of Ministry of Law, Justice and Company Affairs are still awaited. It has accordingly been stated in para-9 of the Draft Cabinet Note that their views may be ascertained in the meeting itself.

- slip 'D'

- 3. This morning Home Secretary directed that necessary copies of the Cabinet Note may be sent to Cabinet Secretariat today itself.
- 4. A clean copy of the Note for the Cabinet is placed below (DFA). The same may kindly be seen for approval and signature of SS(ISP). A copy of this Cabinet Note has already been given to Director(OL) for Hindi version. The Hindi version is expected to be received by about 5.00p.m. On receipt thereof, the Hindi version of the Cabinet Note will also be submitted to SS(ISP) for signature.

The file is submitted accordingly.

(V.P. Bhatia)
Under Secretary(D.IV)

Dir (15-1) (21.4.99 E)

J's (ts/t)

22 (15 A) D 21/1/2/2

Sangeta Gairela 21.4.99.

21.4.99

Reference notes from pre-page.

Required number of copies of the Cabinet Note have already been sent to the Cabinet Secretariat.

- 2. Attention is invited to the comments/views furnished by the Ministry of Finance, Department of Expenditure, on the Cabinet Note relating to appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose (Slip 'D'). In these comments, Deptt. of Expenditure has inter alia pointed out that budgetary support required has not been indicated and is required to be brought out.
- 3. On account of urgency in the matter, the processing of the proposal could not be routed through

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our integrated finance with a view to ensure that necessary budgetary support would be available for the functioning of the Commission under reference. However, we may now send a copy of the Cabinet Note to FA(Home) requesting him to see the budgetary requirements for the functioning of the Commission, if approved by the Cabinet, initially for a period of six months (it has been projected in the Cabinet Note that approximately an amount of Rs, 83,80,000 per annum would be required as salary of the Chairman and other senior officials/staff of the Commission). A fair note to be sent to FA(Home) is placed below for consideration of JS(IS-I).

Dir.(15-1) (12-4.97)

Transh us D.IV

Sangita Gariola 22-4.93

(V.P. BHATIA) Under Secretary (D.IV) 22.4.99

Dia(15-1) Tomported. Kindly Send Mis

Communication to FA(H) and know prince

The in your begand the papers on

All also Set what has discuss with me

Misthy lines you had discuss with me

23.4-97

Son Bhotia.

US(D-N)

As directed, a reminder to be

sont to Cabrinet Secretariat requestion for
expedituin a decision on the proposal contouned
in the Cabrinet order sent on 21.4.99 repairing
exphosing men of a Commission of Inquiry to Rook into
the alleged disappearance of Network Subhas Chauses
Box is placed below for counideration.

[R36a]

JS(15/2)

55 (15P) devoied that we may request Cabinet

-3H-53

Sectt to expedite a decision on the Cabinet Note. Accordingly, a letter has been sent to Cab Suretarial today. A copy is placed alongside for perusal (F/A') Langila Gairola 26.4-99

SS(1SP)

JS (5-8) - 1 199

This file was called for from the IS-I Division for parioal. Relevant extacts from this file in order to process the case for creation of the requisite no- y-posts + making provosion of funds, for which a separate part fill has been opened 2 - This file is now returned.

Js-(Is/I)

Sangita Gairola 29.4.99

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No. VI /11034 / 18/98-15 (D.III)

यिताडल के किए मेट " मेराजी मुनाय -यद्र वीस के तंत्राकिशत अण्या हो जाते विषयम जांच आयोग को किस्ति। ' विषयम को दिन्ती में एक एकि नीच स्ट्री है। इस में परिश्वाहर-ए पर एक अधिमम्बन, मां मर्सदा रे, उत्ते अधिमम्बन की निर्मा गंत्रालय में देख कर मेंट कर दिया अमा दें। पेट को गर्ड सिवास्त्रचला (अंदोनी) की एक सित पर्वे का पर र्या है। काला डक देट सियम्बन हैं भी ग्री श्रीमा के दिनी अरियम्बन्यां के भी मंत्रानिय सामांक मा विमा आं गारिक प्रस्तानिस कार्यका के अव्यक्त का नांक नारित राते हैं। अधिय क्रिया असी भी जी बन्ता। अजार हमने री ता क्र क्षियक्ता का केन्रीरी है सबका दें गिक क्रे अही मांत में दिन द्वा उपमान निमां जी हैं । एक स्वर्धा 4 मी की मेरे भार किस्ता दें।

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14.5.98 319 6/45 (59-4)

भी विकास के मार उप िक में श्री (राममाहा)

m 14/57 95

राष्ट्र किर

यह अधिम्मा एक क्रीकरियक यस्तावाडा है दिशामक अगुदायु की जिस्मियारी राजमांका किद्यांकी रक्षण की है। पह काणाला मानाजवार केड (उट्यतम स्थापाला मेक्न) वेप काणाला समावाजवार केड (उट्यतम स्थापाला मेक्न) वेप काणाला समावाजवार केड (उट्यतम स्थापाला मेक्न) वेप काणाला समावाजवार केड (उट्यतम स्थापाला के की काणाला स्थाप है। इसिलाए क्यापा इस इस्पिक्षणा का काणाला रहे विश्व काणाला के की and Parm sty)

34 PAG2145 (210 MIC)

अवर स्पर्व (जी-4)

14/57 19.

Intimation has been received from How ble Chief Justice of India nomination Mr. Justice M.K. Mukhergee, retired Judge of the Supreme Const of India to head the proposed Commission of Inquiry.

Fair not ficalism (both in Hand & & Eighnohn) in blaced below for significant of SS (ISP).

14.5.90 45 20

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Sangita Gairola 14.5.99

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II (SP)

S1.No. (R) - pp.377/c

Shri Rudra Jyoti Bhattacharjee, Advocate, High Court, Calcutta, vide his letter dated 26.7.99 addressed to Joint Secretary(IS-I), has referred to our D.O.No. VI/11034/18/98-IS(D.III) dated 19.3.99 conveying therein that the intention of the Government of India to form a Commission of Inquiry in compliance to the order dated 30.4.1998 passed in the Writ Petition No. 281 of 1998, has stated that till date no

such Commission has been formed and has requested for confirmation whether any Gazette Notification has been published regarding formation of Inquiry Commission as such. He has also stated that if nothing heard by him within two weeks then he would be compelled to move the Hon'ble Court under the contempt jurisdiction.

2. In this connection, it may be stated that we have already appointed a Commission of Inquiry and the required Notification has also issued on 14.5.1999. As directed by JS(IS-I), we may send Shri Bhattacharjee a copy of the Notification for his information. Fair letter, as dictated, may issue at once.

(V.P. BHATIA) Under Secretary (D.IV) 5.8.99

D.III

Sl.No. (Issue) - page 378/C

mark below for six mine

Sl.No. (R) - page 379/C - FR

Cabinet Secretariat has drawn attention to the minutes of the meeting of the Cabinet held on 28.4.99 (pages 375-376/C) vide which the Cabinet approved appointment of a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952, to enquire into the alleged disappearance of Netaji Subhas Chandra Bose with the modification that the creation of posts of the supporting staff below Joint Secretary level for the Commission may be separately processed in consultation with the Deptt. of Expenditure and has requested this Ministry that action taken in pursuance of the decision of the Cabinet may be intimated to that Secretariat immediately.

- 2. In this connection, it may be stated that a NOtification appointing a Commission of Inquiry consisting of Mr. Justice M.K. Mukherjee, a retired Judge of the Supreme Court of India, has already been issued by the Central Government on 14.5.99. A copy of this Notification may be made available to the Cabinet Secretariat.
- 3. As regards the creation of posts, the same have already been created in consultation with the Deptt. of Expenditure. A copy of the order issued for creation of posts may also be made available to the Cabinet Secretariat.
- 4. Fair O.M. to be sent to Cabinet Sectt. is placed below which may kindly be seen for approval before issue.

Dir. (IS-I) Under Secretary (D.IV)

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MHA/IS(D.III)

S.No. (R) PP. /Cor - Puc

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PUC may kindly be seen.

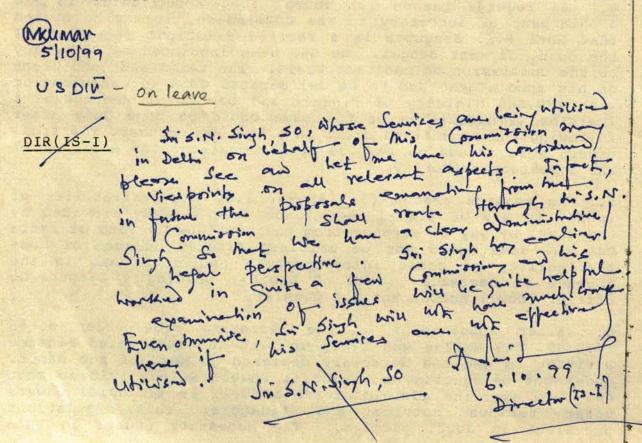
- 2. This is regarding extension of the term of Justice Mukherjee Commission of Inquiry set up by the Govt. of India vide Notification No. SO 339(E) dated 14.5.99 for inquiry into the alleged disappearancse of Netaji Subhas Chandra Bose. The detailed Notification regarding setting up of this Commission including terms of reference given to it may kindly be seen at P. 369-370/Cor. The Secretary of the Commission, as per the directions of Justice Mukherjee, Chairman of the Commission, has approached the Government for extending the initial six months' term in view of the following reasons:
 - l.non-availability of esential infrastructure including suitable accommodation in Calcutta and manpower;
 - 2.long delay in the appointment of the Secretary to the Commission, and
 - 3.non-availability of funds to the Commission for incurring the preliminary expenditure.
- 3. As regards reason (1) above, it may be stated that the headquarters of the Commission are at Calcutta and accordingly the Commission has to find a suitable accommodation for its office there. The MHA has already apprised the Secretary of the formalities to be observed in case the Commission desires to hire some private accommodation. The Secretary of the Commission is already negotiating the matter with the Cycle Corporation of India, a Govt. Undertaking, some private parties and the Govt. of West Bengal and a decision is likely to be taken shortly.
- 4. As regards reason (2) above, i.e. about delay in the appointment of Secretary to the Commission, it may be stated that Shri P.K. Sengupta is a retired Principal Secretary of the Govt. of West Bengal. He has been appointed as Secretary to the Commission on contract basis. The terms and conditions of his appointment had to be deliberated upon in consultation with IFD, the Ministry of Finance and Deptt. of Personnel & Training .Finalisation of the same could be done only after following the prescribed drill in a thorough manner. The final orders were issued on 17.8.99 after obtaining the approval of the competent authority.
- 5. As regards reason (3) above, i.e. non-availability of funds, it may be stated that funds were already provided by the Govt. by way of advance from the Contingency Fund of India but the same could not be utilised firstly because of non-availability of basic infrastructure and staff and in the absence of Secretary (Head of Deptt), Drawing & Disbursing Officer (DDO), Accountant and Cashier.
- 6. After appointment of the Secretary vide order dated 17.8.99, the matter was taken up with the Integrated Finance Division to get the Secretary declared as Head of the Deptt. under the Delegation of Financial Powers Rules, 1978 so that he could exercise administrative as well as financial powers under various service and financial rules/regulations prevalent in Govt. offices. The necessary orders in this

from pre-page!

regard have since been issued vide letter dated 21.9.99.

- 7. As regards appointment of other supporting staff viz. Section Officer; who could be declared as Drawing and Disbursing Officer and Head of Office; Accountant and Cashier, the Secretary of the Commission has, vide PUC proposed certain appointments on contract basis on consolidated salary. The matter is being taken up separately with IFD. This will obviously take some time after their appointment is finalised with the concurrence of the IFD, etc. It is worthwhile to mention that in the absence of DDO, Cashier & Accountant the Commission will not be able to utlise the funds available to it and these functionaries will obviously be in position after a suitable accommodation/ office for the Commission has been located.
- 8. The above handicaps and impediments are always there whenever a new establishment is set up. However, it is hoped that the Commission will overcome the prolonged teething troubles without much loss of time and it will start its normal functions.
- 9. Keeping in view the above factors as also the request of the Secretary of the Commission which has the approval of the Hon'ble Chairman of the Commission and also taking a realistic view in the matter, especially in view of the terms of reference given to the Commission, it appears to be justified that the Commission should be given atleast one year's extension beyond 14.11.99 to accomplish its task.
- 10. From a perusal of the file regarding setting up of Jain Commision of Inquiry, it has been found that the extension of the term of that Commission, from time to time, was done with the approval of HM. On the same analogy the terms of Justice Mukherjee Commission of Inquiry may also be extended till 14.11.2000 with the approval of HM. Kind approval of HM may thus be solicited.

Submitted



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JUSTICE MUKHERJEE COMMISSION OF INQUIRY

Notes on p.41-42/N ante may please be perused.

- 2. This is regarding the request of Secretary, Justice Mukherjee Commission of Inquiry on alleged disappearance of Netaji Subhas Chandra Bose, for extending the term of the Commission.
- 3. The appointment of this Commission was announced vide Notification No.SO 339(E) dated 14.5.99 (p.369-370)/C). As per para 4 of that Notification the Commission is required to submit its report to the Central Government as soon as possible but not later than six months from the date of publication of the Notification i.e. not later than 14.11.99. However, in the absence of basic infrastructure and staff as also the accommodation for the office of the Commission at Calcutta, the Commission has not been able to make a headway. The handicaps/impediments of this type are usually always there whenever such new establishment, are set up. The Ministry, on its part, is already seized of these problems and the same are likely to be resolved shortly. Once the infrastructure and staff are in place things will difinitely move in a positive manner.
- 4. The Secretary of the Commission keeping all factors in view has requested for an extension of one year beyond 14.11.99 i.e. upto 14.11.2000 for submission of the Commission's report to the Government. However, the idea is to get the report of the Commission as early as possible and, therefore, it may not be advisable to grant an extension of one year at a stretch at this stage. Moreover, the Commissions like Justice Jain Commission of Inquiry, Liberhan Ayoudhya Commission of Inquiry, etc. were granted extensions in spells of six months only.
- 5. In the foregoing circumstances it is felt that an extension of six months i.e. from 14.11.99 to 14.5.2000 may be granted to the Commission for submission of its report.

(S.N. SINGH)
SECTION OFFICER(JMCI)
6.10.1999

DIR(IS-I)

This concerns the proposal of the Mukherjee Commission of Inquiry for extension of its term. Notes from p.41-43/N ante explain the case. The Commission had been given time till 14.11.99 to submit its report. However, due to various teething problems, which every new set up has to face invariably, the Commission has not been able to cover much ground. These problems are being tackled by MHA as well as the Commission at various

levels and the things are expected to move in a positive direction shortly after the basic infrastructure and the staff are in place.

2. In view of the foregoing position, an extension of six months i.e. till 14.5.2000 seems to be reasonable as against one year requested by the Commission. Since such extensions to the Commissions have been granted with the approval of HM in the past, kind approval of HM may be obtained in the instant case also.

> 7.10.99 (A.K. Paitandy) Director (IS.I) 7.10.99

JS(15,1)

Sangila Gairola 7.10.99

SS(ISP)

frobling Relating to Switche accommodal for the Committee, posting of Patt wicheding Seelitage and Silvase of Funds have been sorted ant: The note at F/A may buildly be few The proposal at 'x' above by extruber many knidy be approved.

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Joseph Justis-1) Justis-1) SS(15P)

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us(ptu) A status note, as dosirad, is al slip 'A'.

नडराक्ट) May pl. see Hatus note at A . The problem have been sorted out.

29231645-11-11

Ref. notes on p 43-44/N ante.HM has approved the proposal to extend the term of Justice Mukherjee Commission of Inquiry into alleged disappearance of Netaji Subhash Chandra Bose upto 14.5.2000.

2. We may now issue a notification amending the original notification dt.14.5.99 published as S.O.339(E) so as to indicate that the Commission shall submit its report to the Central Govt. as soon as possible but not later than 14.5.2000. Accordingly draft is put up for consideration please. This has been attempted on the basis of the similar notifications issued from time to time for extending the term of Jain Commission of Inquiry.

The DFA will have to be get vetted by the M/o Law (Legislative Deptt) who may be requested to do the needful.

Section Officer(JMCI)

As this notification is to visue before 14.11.99, the US(D/IV) file will have to be taken personally to Law Minuty followed by a Hindi version to be got done by the official Language Legislatia Commission.

May kindly approve

Langita Garrola

DLe (Dr Sangay Sirgh)
KNC
4/11/99

M/ Law & Justice (Legislative Dep. H.)

MHA I.D. Hr. VI/11034/18/98-15 (D.II), at. 4.11.99.

(बांच प्रोट स्थाप म्याबन Minutes of Law & Justice. (Freist faxist) (Legislation For primary) विवायी । ज्यूमान Sezislative I Books

The draft notification as slightly amended in pencil is formally in order.

(DR. SANJAY SINGH) Deputy Legislative Counsel 4.11.1999

Ministry of Home tajrs Deputy Legislative Counsel Ministry of Law & Justice (Legislative Deptt;

Ref. notes on p 43-44/N ante.HM has approved the proposal to extend the term of Justice Mukherjee Commission of Inquiry into alleged disappearance of Netaji Subhash Chandra Bose upto 14.5.2000.

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(S.N. Singh)

Section Officer(JMCI)

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May kindly approve

Langeta Garrola

JSLLEBRIKAL) DLC (Dr Sangay Singe)

KNC
4/11/99

US(ATO)

M Law & Justice (Lesislative dep. H.)

MHA I.D. Mr. VI/11034/18/98-15 (D.III), at. 4.11.99.

(बांच यो र स्थाय म्याच्य Ministry of Low & Justice. (FEBTAL FREITH) (Legislative For primary) विवायी । जन्मा Logistative I South

The draft notification as slightly amended in pencil is formally in order.

(DR. SANJAY SINGH)

Ministry of Home Lairs PTO Ministry of Law & Justice

Ref. notes from p. 43/N auté.

2 - The Notification extending the term of the Commu. inquiring into the alleged disappearance of Netaji Pubhash Chandra Bose has been vetted by the M/Law Chegislative depth.) vide pre-page, 9ts Hindi Translation has also been obtained from the Official Language Wing of the Legislative DepH. vide p. 385-387/cor.

3. We may now send the Notification C Hindi and English Versions) la the Gort of India Press, Mayapuri, New delhi for being published, after the fair notification has been signed by Is (Is-I). 11.11.99.

Director (15-2) X lait - 58

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To be published in Part-II, Section 3, Sub-section (ii) of the Gazette of India, Extraordinary dated the-----)

Government of India
Ministry of Home Affairs

Notification

dtel, re- pection (1) \$

S.O.....(E); In exercise of the powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Home Affairs number S.O. 339(E), dated the 14th May, 1999, namely:-

In the said notification, for paragraph 4, the following paragraph shall be substituted, namely:

4. The Commission shall submit its report to the Central Government as soon as possible but not later than the 14th May, 2000".

(Sangita Gairola)
JointSecretary to the Govt. of India

(File No.VI/11034/18/98-IS(D.III

Note: The notification appointing the Commission was published in the Gracelle of India viole number 5.0-39(6) - slated 14-528

(sangita Grain la)

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p-365

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-2-6

TO BE PUBLISHED IN PARAT II, SECTION 3. SUB-SECTION (11) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED THE 3.7M AUGUST. 1994.

MINISTRY OF HOME AFFAIRS

Dated: New Delhi, the 30th August, 1994

Notification

S.O. 6246) - In exercise of the powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Home Affairs, S.O. No. 545(E), dated the 23rd August, 1991, namely:-

In the said notification, for paragraph 3, the following paragraph shall be substituted, namely:-

"3. The Commission shall submit its report to the Central Government as soon as possible but not later than the 28th February, 1995".

(सीं फंसॉग) (C. PHUNSOG) संयुक्त सचिव Joint Secretary गृह नन्त्रालय

diane,

JOINT SECRETARY TO THE GOVT. OF INDIA

गृह नन्त्रालयः Ministry of Home Affaira

(File No.I/12014/17/91-IS(D.III)

Foot note: The principal notification was published vide No.S.O. 545(E) dated the 23rd August. 1991. and subsequently amended vide No. S.O. 118(E) dated the 7th February, 1992, S.O. 648(E) dated the 28th August. 1992, S.O. No. 121(E) dated the 24th February, 1993, S.O. No. 645(E) dated the 27th August. 1993 and S.O. No. 194(E) dated the 21st February, 1994.



-3-6

भारत के राजपत्र, असाधारण, भाग 2, खंड 3, उपखंड है। हैं। तारी उ० अगस्त, 1994 में प्रकाशनार्थ

गृह नैत्रालय

नई दिल्ली, तारीख 30 अगस्त, 1994

बधिसूचना

का का का 622 (अ) केन्द्रीय सरकार, जांच आयोग अधिनियम, 1952 \$1952 का 60% की धारा उद्वारा प्रदत्त शिक्तयों का प्रयोग करते हुए, भारत सरकार के बृह मंत्रालय की अधिस्तवना संक का का 0 545% अ%, तारी 3 3 अगस्त, 1991 का निम्निलिस्त संशोधन करती है, अर्थातु:-जक्त अधिस्तवना में, पैरा 3 के स्थान पर, निम्निलिस्त पैरा रखा साएगा, अर्थातु:-

> "3. आयोग अपनी रिपोर्ट्स केन्द्रीय सरकार को यथासंभव शीछ, किन्तु 28 फरवरी, 1995 के अपरवात् प्रस्तुत करेगा ।

> > (सीठ फुंसॉग) (C. PHUNSOG) संयुक्त सचिव Joint Secretary यूट नन्त्रालय Ministry of Home Affairs

श्रीः कुन्साग्र ह सी० पुनाग ह संयुक्त सन्ति, भारत सरकार

फार्लि 1/12014/17/91-बाईवपस08डी01118

पाद टिप्पण: मूल अधिसूचना का0का0स0545 के के तिस्प कात वारी 23 कारत, 1991 हारा प्रकाशित की गई थी और तत्प कात का0का0स0 118 के तारी हैं 7 परवरी, 1992 का0का0स0648 कि तारी हैं तारी हैं 24 परवरी, 1992 का0का0 से 121 कि तारी हैं 24 परवरी, 1993, का0का0स0645 के कि तारी हैं 27 कारत, 1993 और का0का0स0 194 के कि 21 परवरी, 1994 हारा उसमें संशोधन किए गए 1



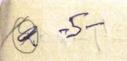
STATUS NOTE ON MUKHERJEE COMMISSION OF INQUIRY TO ENQUIRE INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE

A Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose was appointed under the Chairmanship of Mr. Justice M.K. Mukherjee, a retired Judge of the Supreme Court of India vide Notification S.O. No. 339(E) dated 14.5.1999. This Commission was required to submit its report to the Central Government as soon as possible but not later than six months from the date of publication of the Notification i.e. upto 14.11.1999.

- 2. With the approval of the Ministry of Finance, Department of Expenditure, 24 posts including that of Chairman and Secretary for the Commission were created vide this Ministry's Order dated 2.6.1999. Justice Mukherjee was informed about the creation of these posts on 2.6.1999.
- 3. With the approval of the Ministry of Finance, Deptt. of Economic Affairs (Budget Division), an advance of Rs. 36 lakhs from the Contingency Fund of India was sanctioned on 31.5.1999 for meeting expenditure on the Commission of Inquiry on various counts such as salary, TA/DA, office expenses, professional services and other unforeseen expenses. A reference has now been received from Secretary, Justice Mukherjee Commission of Inquiry, requesting for extension of the term of Justice Mukherjee Commission of Inquiry by another one year beyond 14.11.1999. He has, while making this request for extension with the approval of the Hon'ble Chairman, adduced the following reasons:-
 - (i) Non-availability of essential infrastructure including suitable accommodation in Calcutta and manpower;
 - (ii) Long delay in the appointment of the Secretary to the Commission; and
 - (iii) Non-availability of funds to the Commission for incurring the preliminary expenditure.

The position with regard to these contentions is explained briefly in the succeeding paragraphs.

4. As already stated, the posts for the Commission were sanctioned as early as on 2.6.1999. Since the Chairman of the Commission decided to function from Calcutta, a request was made to the State Government of West Bengal as early as on 24.5.1999 requesting therein that suitable instructions be issued to the concerned authorities for locating suitable office accommodation and staff who could be posted on deputation or hired on contract basis so that the Commission would commence functioning at the earliest. The State Government was also informed about the posts sanctioned for the Commission. It was further intimated to the State Government that as far as the financial commitment both for manpower and the infrastructure base of the

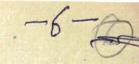




Commission in Calcutta, the required expenses will be met by the Government of India.

A proposal was received from the Chairman on 10.6.1999 for appointment of Shri P.K. Sengupta, a retired Judicial Secretary in the Government of West Bengal as Secretary to the Commission on a fixed pay of Rs. 26,000 p.m. in addition to the monthly pension and Dearness Relief. The proposal was examined in consultation with the Integrated Finance, the Deptt. of Personnal and Training and the Ministry of Finance. Since it was a contract appointment, the matter was also discussed in a meeting arranged in the room of SS(ISP) on 2.8.1999 and with the approval of all concerned, an order appointing Shri P.K. Sengupta as Secretary to 17.8.1999. Commission was issued on Since appointment was on a contract basis and involved sorting out of various aspects including a monthly payment besides the pension and other allowances already drawn which involved reference of the file to various quarters culminating into the finalisation of the various view points in a meeting in the room of SS(ISP), it would be incorrect to say that there was a long delay in the appointment of the Secretary to the Commission. In pursuance of the appintment of Shri Sengupta, he formally joined the post on 19.8.1999.

With regard to non-availability of essential infrastructure including office accommodation in Calcutta and manpower, as already stated, we took up the matter both with the State Government and the Ministry of Urban Development on 24.5.1999. It was after a formal reply from the Directorate of Estates that no vacant general pool accommodation is available at Calcutta, effort was made by this Ministry to arrange office accommodation for the Commission at Calcutta. In this exercise, Director (IS-I) Shri A.K. Paitandy visited Calcutta, met the Chairman and officers of the State Government and tried to sort out the problems confronting the Commission. During this meeting at Calcutta, it transpired that the office accommodation is available with the Cycle Corporation of India. Immediately on return to Delhi, the matter was taken up formally with the Chairman-cum-Managing Director of the Cycle Corporation of India on 18.8.1999 requesting for taking follow-up action for making available the said office accommodation for the use of the Commission. Shri Sengupta, Secretary to the Commission, was also informed about these developments and requested to proceed further in the matter for finalising the said office accommodation. Shri Sengupta responded by a formal reference dated 24.8.1999 itself that he had discussed the matter with Chairman-cum-Managing Director of the Cycle Corporation of India. Shri Sengupta was further reminded on 2.9.1999 to proceed further in the matter inserter as the office accommodation further in the matter insofar as the office accommodation belonging to the Cycle Corporation of India is concerned. Shri Sengupta was further informed that before the funds are released to the Commission, it is necessary that he should be formally declared Head of Department. This aspect has already been processed in consultation with the Integrated Finance and Shri Sengupta has already been declared as Head of Department on 21.9.1999. It was further intimated to him that it would be most desirable that at least the posts of Section Officer, accountant,



cashier and supporting clerical staff are filled up in first attempt to ensure that the office starts functioning.

6. Intimation was also received from Shri Sengupta that besides the office accommodation of the Cycle Corporation of India, he has taken up the matter with certain other agencies also.

Intimation has now been received from Shri Sengupta that space measuring 2350 sq. ft. belonging to Food and Supplies Department of the Government of West Bengal has been placed at the disposal of Justice Mukherjee Commission of Inquiry with immediate effect. With the office accommodation having become available at least a major hurdle has now been overcome.

- 7. With regard to filling up of the posts for the Commission, we have received proposal from Secretary to the Commission on 30.9.1999 for filling up four posts of Section Officer, accountant, cashier and steno Grade 'C' by appiontment on contract basis and this proposal has already been processed and sent to Integrated Finance on 7.10.99. It is expected that the proposal may be approved within a week or so.
- 8. With regard to release of funds, it is essential that a particular Pay and Accounts Office is assigned to the Commission to which all expenditure sanctions may be addressed for obtaining the cheques for the expenditure involved. This matter has already been processed and finalised; RPAO (CISF), MHA, Calcutta, has been assigned to Justice Mukherjee Commission of Inquiry. A formal intimation in this regard as also release of funds is being sent to the Commission in a day or two.
- 9. With the availability of office accommodation, immediate likelihood of sanction of the skeleton staff to enable the Commission to run its office, declaration of Secretary to the Commission as Head of Department, assignment of RPAO (CISF), Calcutta to the Commission and release of funds to the Commission for expenses on various counts it is likely that the Commission would start functioning effectively.



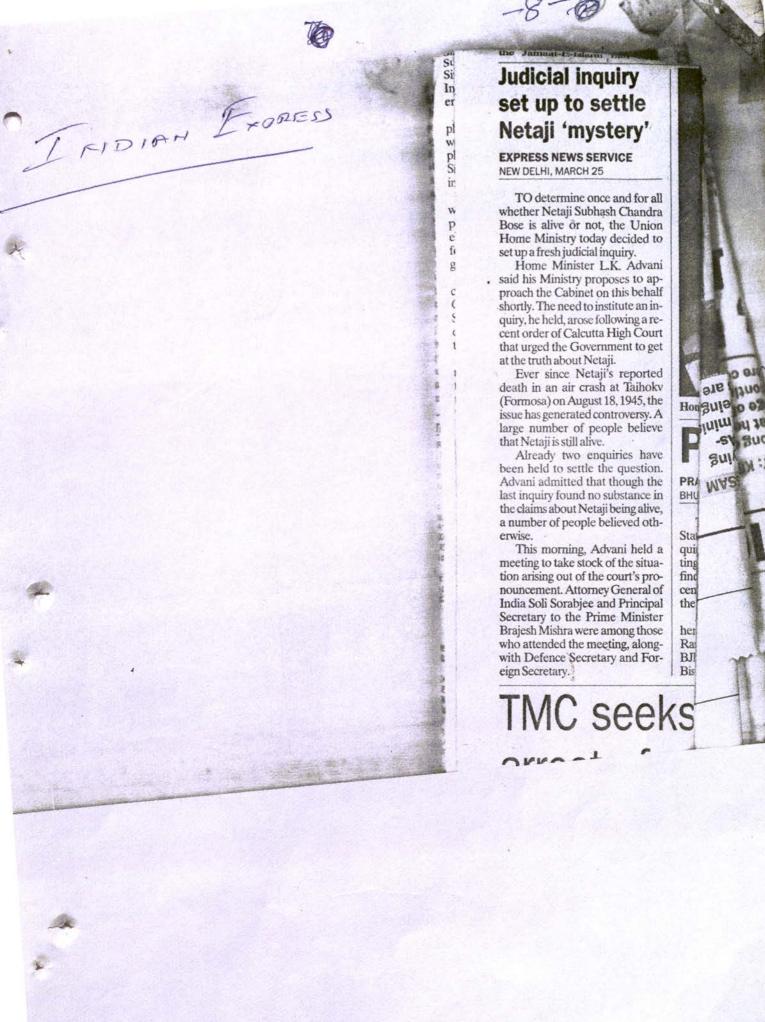
MOST IMMEDIATE
Secret 7-

MINISTRY OF HOME AFFAIRS

Enclosed is a copy of Draft Cabinet Note pertaining to institution of an Inquiry Commission to enquire into the disappearance of Netaji Subhas Chandra Bose. The Hindi version of the Note may be prepared immediately for making copies to be sent to the Cabinet Secretariat TODAY. This may be treated as most immediate.

(Sangita Gairola) JS(IS-I) 21.4.1999

Director (OL)



tion would have been passed to implement the Assembly's order immediately.'

UN charter

Mr Mukheriee added: "We feel that the problems of Kosovo ward expansion co-opting other countries into its designs to impose its hegemony over the world.

Chandra said three injured policemen were admitted to Patna Medical College hospital.

STATESMAN NEWS SERVICE

NEW DELHI, March 25. - The Union government has decided to appoint a fresh commission of inquiry to probe the mysterious disappearance of Netaji Subhas Chandra Bose.

The commission would investigate the following areas regarding Netaji:

* whether Netaji is dead or alive * whether he died in the plane crash as alleged

* whether the ashes in the Japanese temple are ashes of Netaii whether he has died in any other manner at any other place

* if he is alive his whereabouts.

Announcing the government's decision to constitute a commission of inquiry, the Home Minister, Mr L K Advani, said: "The people of the country were not convinced that Netaji died in the air crash. There is a need to find out the truth about Netaji,

and was a student or ooping ollege in Mumbai who died due to

he ragging of seniors." Freedom for women in India is when the judicial system is genderensitised and non-corrupt. The law nuct he a threat to con

one of the greatest patriots of the

country.

Mr Advani said that the decision of the Home Ministry has come following an all-party resolution adopted by the West Bengal Assembly last year that a fresh probe was needed regarding Netaji's disappearance. The Calcutta High Court, while disposing a writ petition on the question of bringing back Netaji's "ashes" from Tokyo, also felt the need for a fresh probe into his disappearance, Mr Advani said.

The Home Ministry deliberated on the subject with various experts on Netaji research, includ-ing Colonel Dhillon, Mr Sisir Bose, Justice Narula and Mrs Laxmi Sehgal. The Home Ministry also sought the opinion of the Attorney-General, Mr Soli Sorabjee, the principal secretary to the Prime Minister and the officials of the Ministry of External Affairs and decided to constitute a

fresh inquiry into the matter. The Home Ministry's decision would be put up before the Union Cabinet by the next week, Mr Advani said.

Mr Advani said: "To me it appears that the panel will have to depend on documents rather than direct evidence. But wherever evidence is available, it will be wel-

This commission of inquiry would be the third appointed by the Government of India to probe the mysterious disappearance of Netaji Subhas Chandra Bose. The first commission of inquiry, headed by Shahnawaz Khan, was constituted in 1956, which held that Netaji had died in the air crash. Following a demand for a fresh inquiry by a number of MPs, the Government of India instituted a judicial probe in July 1970 under Mr Justice G D Khosla. His find-ings were similar. The Union Cabinet accepted the findings of the Khosla Commission in August

1974. "However, the findings did-not find universal acceptance," Mr. Advani said.

Former M P, Mr Samar Guha, subsequently raised the Netaji issue in Parliament several times demanding another inquiry. In 1978, the former Prime Minister, Morarji Desai, responded to his demand by saying: "The majority report of the first committee and Mr Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two reports and various contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, the government finds it difficult to accept that the earlier conclusions are decisive. At the same time, the government feels that no useful purpose would be served by having any further inquiry.'

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STATESMAN NEWS SERVICE

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STATESMAN



Fresh probe into Netaji 'death'

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New Delhi, March 25

A FRESH judicial inquiry is to be instituted into the disappearance of Netaji Subhas Chandra Bose. The proposed inquiry commission, slated to probe afresh the reported death of Netaji in an aircrash at Taihoku (Formosa) on Aug 18, 1945, will be third of its kind to unravel the continuing mystery over the issue.

Announcing the Government's intention on this count, Home Minister L. K. Advani said at a crowded Press conference here today that the inquiry commission will be set up soon after his Ministry's proposal in this regard gets a clearance from the Union

Mr Advani also set at rest the controversy regarding Netaji's name being included in the list of war criminals saying that as per information furnished by the United Kingdom Government, his name did not figure in the list.

The terms of the proposed commission are likely to be on the lines of the directions issued by the Calcutta High Court in response to a litigation over the issue earlier last year.

These include (a) whether Netaji is dead or alive (b) if he is dead whether he died in the plane crash, as alleged (c) whether the ashes in the Japanese temple are ashes of Netaji (d) whether he has died in any other manner at any other

place and, if so, when and how (e) if he is alive, in respect of his whereabouts.

The Home Ministry's decision to refer the continuing controversy regarding the disappearance of Netaji to a judicial probe was preceded by high-level meeting chaired by Mr Advani at his office here this morning. chaired by M. ... here this morning.

here this morning.

The meeting was attended among others by Col G S Dhillon, Dr' Sisir Kumar Bose, Justice (Retd) R S Narula, Mr D B Kalamankar, Principal Secretary to the Prime Minister Brajesh Mishra, Secretaries in the Ministries of Home, External Affairs and Defence, Attorney General Soli Sorabji and other senior Government officials senior Government officials.

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register double-digit growth in February, while being optimistic of achieving the revised 4 to 5 per cent growth target. — PTI

The BJP's view was that military action was not a solution to the problem which should have been resolved through dialogue and through the diplomatic channels.

Home Ministry plans probe into Netaji's disappearance

By Our Special Correspondent

NEW DELHI, March 25.

A fresh Commission of Inquiry may be instituted to settle the question of disappearance of Netaji Subhash Chandra Bose nearly 54 years ago. The Union Home Ministry proposes to approach the Union Cabinet shortly with a recommendation for setting up yet another judicial enquiry to put an end to the controversy.

At a press conference here today, the Union Home Minister, Mr. L. K. Advani, said the Home Ministry's proposal to the Cabinet would be based on the directions of the Calcutta High Court and a resolution of the West Bengal Assembly.

"The Commission of Inquiry would be such as would command confidence of the people," Mr. Advani said. He said any inquiry panel, if set up at this stage, would have to rely on documents and papers rather than on direct evidence, Earlier, two probe panels, headed by Mr. Shah Nawaz Khan in 1956 and Mr. Justice G. D. Khosla in 1970, had held the report of Netaji's death in an aircrash at Taihoku, Formosa on August 18, 1945 as true. However, both the reports, though accepted by the Government, had failed to find universal acceptance.

Mr. Advani said the then Prime Minister, Morarji Desai, while replying to a question in Lok Sabha, had stated: "the majority report of the first Committee and Justice Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two reports and various important contradictions in the testimony of witnesses have been noticed...the Government finds it difficult to accept that the earlier conclusions are decisive, At the same time, the Government feels that no useful purpose would be served by having any further inquiry."

Later, the question arose of bringing back Ne-

taji's ashes from a temple in Tokyo. In the meanwhile, a writ petition was filed in the Calcutta High Court which sought directions for a fresh enquiry into Netaji's disappearance. While disposing of the petition, the High Court directed the Government to launch a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry, as a special case for the purpose of putting an end to the controversy.

Mr. Advani said the High Court gave five specific directions in April last which would virtually guide the framing of terms of reference for the proposed probe panel.

These are: whether Netaji is dead or alive; if he is dead whether he died in the plane crash as alleged; whether the ashes in the Japanese temple are ashes of Netaji; whether he died in any other manner at any other place and, if so, when and how; if he is alive, in respect of his whereabouts.

The Home Ministry convened a meeting today to take stock of the situation arising out of the High Court's verdict which was presided over by Mr. Advani and attended by associates of Netaji and erstwhile members of the Indian National Army. These included Col. G. S. Dhillon, Dr. Sisir Kumar Bose, Mr. Justice (Retd) R. S. Narula and Mr. D. B. Kalamankar. Col. Laxmi Sehgal sent her written comments.

The Attorney-General, Mr. Soli Sorabjee, the Principal Secretary to the Prime Minister. Mr. Brajesh Mishra, the Foreign Secretary, the Home Secretary, the Defence Secretary and the Education Secretary were also present at the meeting.

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Mr. Advani said consensus during the discussions was that to settle the question of Netaji's disappearance a fresh judicial enquiry may be instituted and it was left to the Government to take a decision. He said his Ministry would prepare a note and place it before the Union Cabinet soon.





SECRET COPY NO.

FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

1. Background:

- 1.1 Netaji Subhas Chandra Bose, one of India's greatest sons, described as a "patriot of patriots" by Gandhiji, was fiercely committed to the cause of India's freedom. He believed that the British had to, and could, be driven away through armed action. He founded the Azad Hind Sarkar and led the Indian National Army (INA), of which he became the unquestioned supremo, in the fight against the British. He tirelessly moved from Malaya to Singapore to Burma to Japan mobilising support and planning tactics and succeeding in getting Japan to extend its aid. He was on one of his missions when his airplane crashed immediately after take-off in Taihoku (Formosa), on 18 August, 1945.
- 1.2 Netaji had by then created an undying image for himself amongst his countrymen and such was his aura, and the awe in which he was held, that the report of his demise in a hospital, following the crash, was not universally accepted and, in fact, there has been an agonising question mark over it.
- 1.3 Government of India took note of the sentiment of millions of Indians who debated the veracity of the report of the aircrash and his subsequent death. It decided to institute an enquiry to ascertain the truth. In April, 1956, it was headed by Shri Shah Nawaz Khan, a close associate of Netaji, and it comprised Shri Sisir Bose and Shri S.N. Maitra. A majority of this committee, after a full enquiry, concluded

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FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

that Netaji had indeed died in the plane crash and his mortal remains were kept in Renkoji Temple in Tekye. The Government accepted this finding but it was not accepted by some sections of our people.

1.4 Demands were made by a number of Members of Parliament for a fresh enquiry. The Government of India, therefore, decided to set up a Judicial enquiry. In July, 1970, Justice G.D. Khosla was appointed to head this Commission of Inquiry. He completed his enquiry and he also concluded that Netaji had died as a result of the plane crash. The Central Cabinet accepted the finding of this Commission of Inquiry in August, 1974. But once again this finding did not gain universal acceptance such was Netaji's persona and his popular charisma.

2. Subsequent developments-Response of India's Prime Minister in 1978:

2.1 Shri Samar Guha, M.P., one of those with whom the report of Netaji's demise deas not carry credibility raised the matter in the Lok Sabha on a number of occasions and demanded another enquiry. On 28th August, 1978, Shri Morarji Desai, the then Prime Minister, responded to this in the Lok Sabha by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and



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FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

2.2 Shri Samar Guha replied as follows:-

"Sir, Today is a great day for the whole Indian people because a mortal sin, a treacher ous crime that was committed against the epic hero of Indian freedom has been undone. If I say that Netaji was given burial, out of political conspiracy, it would not be an exaggeration. Although there was not an iota of doubt or any positive proof to the contrary that the plane crash was nothing but fake, and the alleged crash did not involve Netaji at all."

3. Immediate cause of action:

Much later arose the question of bringing back Netaji's mortal remains from Tokyo. It was felt that this could be done only if public opinion favoured it. While efforts to build such a favourable public opinion about this were to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed writ Petition No.281 in the Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. A few other almost identical Writ Petitions were filed in the Supreme Court and the High Courts of Calcutta and Orissa. These touched upon issues like the 'posthumous' grant of the 'Bharat Ratna' to Netaji,

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FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

whether he was declared a war criminal, under what circumstances his mortal remains can at all be brought back to India, etc.

- 3.2 The Calcutta High Court in its verdict dated 30.4.1998 on the Writ Petition of Shri Bhattacharjee issued directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:
 - "a) whether Netaji Subhas Chandra Bose is dead or alive;
 - b) if he is dead whether he died in the plane crash, as alleged;
 - c) whether the ashes in the Japanese Temple are ashes of Netaji;
 - d) whether he has died in any other manner at any other place and, if so, when and how;
 - e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining matter as above and proscribe, if necessary, all



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FILE NO.VI/11034/18/98-D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

4. Resolution of West Bengal Legislative Assembly:

4.1 The West Bengal Legislative Assembly also, on 29.12.1998, adopted a motion demanding;

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

- 4.2 The full text is at Appendix-II.
- 4.3 The State Government has recommended setting up of an enquiry into the mysterious disappearance of Netaji Subhas Chandra Bose. Its letter is at Appendix-III.
- 5. Exploring avenues to meet the developments-meeting of eminent opinion makers:
- 5.1 Government of India took note of the judgement of the Calcutta High Court and the motion passed by the West



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FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

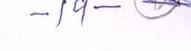
Bengal Legislative Assembly. A meeting of eminent persons was convened by the Union Home Minister on 25.3.1999 to discuss the manner in which action be taken to give effect to the directions of the Calcutta High COurt and the motion of the West Bengal Legislative Assembly. The invitees were close associates of Netaji Subhas Chandra Bose as well as some other persons whose views would be crucial intaking a decision in the matter. Those who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of Defence, Ministry o f External Affairs, Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal, who was invited, could not attend, but she sent her views which were circulated to all those who attended the meeting.

5.2 Discussions in the meeting were based on the personal knowledge and experiece of those present, the findings of the Shah Nawaz Khan Committee and the Khosla Commission's. It was ultimately felt that in order to take the matter to its logical end and that also once for all, it would be advisable to setup another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding Netaji Subhas Chandra Bose.

6. Proposed action plan:

6.1 It is, therefore, proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are contained in the draft notification which is at Appendix—IV

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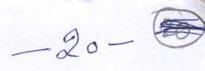
FILE NO.VI/11034/18/98-D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- 6.2 It is also proposed that the Chief Justice of India may be approached to suggest the name of a suitable person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry.
- It is further proposed to have a number of posts created viz. one post of Chairman; one post of Secretary; one post of Officer on Special Duty and 21 other posts representing the supporting staff in the scales of pay indicated against each post in the statement at Appendix-V with a view to enable the Commission to commence functioning without undue delay. The number of posts projected at Appendix-V, depending upon the functional requirement once Commission gets going, may further. go up This additional requirement of further posts also needs to be kept in view.

7. Approval sought:

- 7.1 Approval of the Cabinet is therefore solicited to the following:-
 - (i) Appointment of a Commission of Inquiry as proposed in para 6.1 and 6.2 above and;
 - (ii)Creation of initial requirement of supporting staff for the Commission as contained in para 6.3 above.
- 8. A statement of implementation schedule is at Appendix-I.







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FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- 9. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard.
- 10. Views of Ministry of Finance may be obtained in the meeting.
- 11. This note has been seen and approved by the Home Minister.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: April, 1999

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APPENDIX-

I

NO.VI/11034/18/98-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: - Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

ist of the decision required	Projected benefits/results	Time schedule for manner of implementation/reporting to Cabinet Secretariat.
Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.	The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.	



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ippendix -II

THE WEST BENGAL LEGISLATIVE ASSEMBLY
ON 24,12.98.

This House notes with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereahouts of

Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

Department of West Bengal
Department of Parliamentary Affairs

No. 634-PA.

Dated 6th April. 1999.

Please recall your telephonic conversation with Principal Secretary, Home and Home

The State Government recommands setting up of an inquire into the mysterious

Yours fait sfully,

Joint Secretary.

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Secretary, Government of West Bengal on 5th April, 1999 regarding the setting up of a Commission of Enquiry into the mysterious disappearance of Netaji Sublus Chandra Bose. A resolution regarding this subject was adopted in the West Bengal Legislative Assembly on

From :

To

Sir,

December 24 1998

R.P.S. Kahlon, IAS Joint Secretary,

Parliamentary Affairs Department,

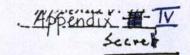
Government of West Bengal.

Shri A. K. Painmdi, IAS Director, Internal Security, Ministry of Home Affairs, Government of India. Fax No. 011-301 5750.

disappearance of Netaji Subhas Chandra Bose.

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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED)

GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952),



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Secret

the	Central	Government	hereby	appoints	a	Commission	of	Inquiry
cons	sisting	of						
765					_			

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
 - (a) whether Netaji Subash Chandra Bose is dead or alive;
 - (b) if he is dead, whether he died in the plane crash, as alleged;
 - (c) whether the ashes in the Japanese temple are ashes of Netaji;
 - (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts:.

 The Commission Shoul also examine the manner in which the exercise of Scrutiny of Publications touching upon the question of death or otherwise of Netapi Coule undertaken by the Got in the linemetaness
- 3. The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.

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- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No.VI/11034/18/98-IS(D.III)



-28-APPENDIXET

List of the leutative staff require for the Commission:

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No.	Designation & Scale of Pay	Date	No.of	Post
1.	Chairman (Rs.30,000 fixed)		1	
2. :	Secretary(Rs.14,300-18,300)		1	
3.	Officer on Special Duty (Rs.12,750-16,500)		1	
4.	Court Master (Rs.10,000-15,200)		1	
5.	Section Officer (Rs.6,500-10,500)		2	
6.	Assistant (Rs.5,500-9000)		2	
7. '	(Rs.5,500-9000)		1	
8.	Cashier . (Rs.5,500-9000)		1	
9.	Typist (Rs.3,050-4,590)		2	
10.	Principal Pvt.Secy. (Rs.10,000-15,200)		1	
11.	Private Secretary (Rs.6,500-10,500)		2	
12.	Steno Gr'C' (Rs.5,500-9,000)		2	
13.	Peon (Rs.2550-3200)		3	

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14. Jamadar (Rs.2610-3540)

15. Safaiwala (Rs.2550-3200)

16. Bailiff

17. Process Server

1

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Nateji Subhas Chandre Bose, one I believe quatest sons, described es a petriot of petriols by Sandhiji, was firmly committed to the cause of tradia's freedom. He was believed that the Bubil had to, to ander end could, be driven away through armed action. Hapland the Indian National Hind trong (INA), of which he become the Sarkan against the Britil. In the part to and of Jopan and tirelessly morel from Meloye to Singepore to Burne to Japan mobilising support and planning tactics. He get to Japan to extend its aid. He was on one of his missions when his amplane crashed immediately after take off in Taihoku (Formosa) on 19 Aug 1945. Notegi had by then congle the energet his compliance and energy was his desired that the report of his demise in a hospital, following the crash, that not been universally accepted and, in fact, there has been an agonising question mark over it. 1.3 Sport of tadia took note of the sentiment of millions of todious who debated the verseity of the report of the tool eincrash and his subsequent death (XXX)

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## NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

# Background:

Netaji's reported death in an aircrash at Taihoku 1.1 (Formosa) on 18th August, 1945 continues to be a subject of national debate. As the news of his death was not found to the Government of India had instituted an be credible, 1956 to ascertain the truth Shri Shah enqui ry-Nawaz Khan headed a Committee that conducted this enquiry yy <del>and hel⊕</del> that Netaji had indeed died in **ば** plane crash and his mortal remains were kept in Renkoji Temple. Tokyo. The Government accepted thes findings. This was, however, not accepted by some sections of our people. Following Bemanda for fresh enquiry by a number of Members of Parliament The Government of India again instituted (a Judicial enquiry. July, 1970 under Justice G.D. Khosla His findings were similar. But that too did not find universal acceptance though once again The Central Cabinet accepted the findings in August, 1974. But once again this find did not going universal acceptance such persone and his popular charisma. in August, 1974. But

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Subsequently, Shri Samar Guha, M.P., raised thes 2+ matter in the Lok Sabha on a few occasions, demander another enquiry. On 28th August, 1978, Shri Morarji Desai, the then Prime Minister, responded to this in the Lok Sabha by stating that:

> "the majority report of the first Committee and Shri Khosla held the report of the death as true.

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

2.2 Show Samar Jula septial as follows:

# ., 3 Immediate cause of action:

4.3.1 Much later arose the question of bringing back, Netaji's mortal remains from Tokyo While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed # Writ Petition No.281 in Calcutta High Court in April, 1998 enquiry into Netaji's alleged demanding a fresh disappearance. A few other almost identical Writ Petitions touchers upon issues like | 'Bosthumous' grant of | 'Bharat Ratna' to Netaji; whether he was declared a war criminal; under what circumstances his mortal remains can at at all be brought back to India, etc.. have also received attention of Hon'ble Supreme Court, and the High Courts of Calcutta and Orissa.

30.4.1998 on the Writ Petition of Shri Bhattacharjee issued directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a

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# FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:

- "a) whether Netaji Subhas Chandra Bose is dead or alive;
  - b) if he is dead, whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese Temple are ashes of Netaji;
- d) whether he (has) died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

# Resolution of West Bengal Legislative Assembly:

The West Bengal Legislative Assembly also, on 4.1 29.12.1998, adopted a motion demanding;

> "that the Government of India should make necessary arrangements for availability records documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

4.2. The full text is at Appendix-II.

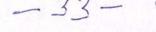
4.3 The State Gove has necommended Setting up of an enginery into the distance of Netonia Suchas Chambra Bese Its Latter is at App.

to meet the developments-meeting Exploring avenues eminent opinion makers:

fort of India took with of, In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly by the Government of India, A meeting of eminent persons was convened by the Union Home 25.3.1999 The invitees included close Minister on associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the matter. Some of the persons who attended are: Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Affairs, Ministry of External Ministry of Defence, Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal, could not

to discuss ich action effect to Cal hip coult I the motivi W.B. Lagis

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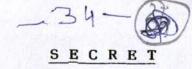
attend, but sent her views which were circulated to all present. While the deliberations in the meeting centred around what has come out so far in historical perspective and the findings of both Shah Nawaz Khan Committee and the Khosla Commission's reports, in the ultimate analysis it was felt that in order to take the matter to its logical end and that also once for all, it would be advisable to setup another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

# 6 Proposed action plan:

- Accordingly, It is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are contained in the draft notification which is at Appendix-IV. It is further proposed that the Chief Justice of India may be approached to suggest the name of a suitable person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry.
- It is also proposed to have a number of posts created viz, one post of Chairman; one post of Secretary; one post of Officer on Special Juty and 21 other posts representing the supporting staff in the scales of pay indicated against each post in the statement at Appendix-10 with a view to enable the Commission to start functioning The number of posts projected at Appendix-1V, depending upon the functional requirement once the Commission gets going, may go up further. This additional requirement of further posts also needs to be kept in view.

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

# 7 Approval sought:

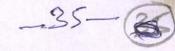
- 9.7.1. Approval of the Cabinet is therefore solicited to the following:-
  - (i) Appointment of a Commission of Inquiry as proposed in para 2 above and;
  - (ii)Creation of initial requirement of supporting staff for the Commission as contained in para \$3 above.
- 10.8. A statement of implementation schedule is at Appendix-I.
- 11.) The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard.
- 10. Views of Ministry of Finance may be obtained in the meeting.
- 13. This note has been seen and approved by the Home Minister.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: 5th April, 1999

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# FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

## NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

# Background:

Netaji's reported death in an aircrash at Taihoku (Formosa) on 18th August, 1945 has continued to be a topic of National debate. As the news of his death was not found stel to be credible, Government of India had instituted an enguiry in April, 1956 to ascertain the truth. Shri Shah Nawaz Khan headed a Committee that conducted this enquiry and held that Netaji had indeed died and his mortal remains were kept in Renkoji Temple, Tokyo. This was, however, not accepted by some sections of our people, though the Government accepted the report. Following a demand for fresh enquiry by a number of members of Parliament, the Government of India once again instituted a judicial enquiry in July, 1970 under Mr. Justice G.D. Khosla. His finding was similar. But that too did not find universal acceptance though once again the Central Cabinet accepted the finding in August, 1974.

# Subsequent developments-Response of India's Prime Minister in 1978:

2. Subsequently, Shri Samar Guha, M.P., raised this matter in the Lok Sabha on a few occasions demanding another enquiry. In 1978, Shri Morarji Desai, then Prime Minister, responded to this by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the

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correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

# Immediate cause of action:

- Much later arose the question of bringing back Netaji's mortal remains from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed a Writ Petition No.281 in Calcutta High Court in April, 1998 fresh enquiry into Netaji's disappearance. A few other almost identical Writ Petitions touching upon issues like 'Posthumous' grant of 'Bharat Ratna' to Netaji, whether he was declared, as a war criminal, under what circumstances his mortal remains can at at all be brought back to India etc. have also received attention of Hon'ble Supreme Court, and the High Courts of Calcutta and Orissa. The Calcutta High Court has responded to the mentioned Writ Petition of Shri Bhattacharjee by issuling directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:
  - "a) whether Netaji Subhas Chandra Bose is dead or alive;

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# File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- b) if he is dead whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese Temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

### Resolution of West Bengal Legislative Assembly:

4. The West Bengal Legislative Assembly also, on 29.12.98, adopted a motion demanding:

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## File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

what ove the vients of the state fort of the state harden "that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

The full text is at Appendix II

Exploring avenues to meet the developments-meeting of eminent opinion makers:

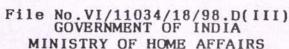
In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly a meeting of eminent persons was convened by the Union Home Minister on 25.3.99. The invitees included close associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the matter. Some of the persons who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Defence, Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal could not attend, but sent her views which were circulated to all present. While the deliberations in the meeting centred around what has come out so far in historical perspective and the findings of both Shah Nawaz Khan Committee and the Khosla Commission's reports, in the ultimate analysis it was felt that in order to take the matter to its logical end and that also once for all, it would be adviseable to setup another Commission of Inquiry as a very special case for the

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purpose of arriving at a definite conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

## Proposed action plan:

6. Accordingly, it is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are at Annexure-II. It is further proposed that he retired Judges of High Courts or Supreme Court may be nominated to conduct the enquiry.

# Cabinet Decision solicited:

- 7. Directions of the Cabinet are solicited for appointment of a Commission of Inquiry as proposed in para 6 above. The draft notification is at Appendix-III.
- 8. A tentative requirement of supporting staff for the Commission is at Appendix-IV. Creation of these posts may also be approved.
- 9. A statement of implementation schedule is at Appendix-I.
- 10. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard. Views of Ministry of Finance may be obtained in the meeting.
- 11. The Home Minister has seen and approved the Note.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: 31st March, 1999

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APPENDIX-T

NO.VI/11034/18/98-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

## STATEMENT OF IMPLEMENTATION SCHEDULE

Subject:- Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Gist of the decision required	Projected benefits/results	Time schedule for manner of implementation/reporting to Cabinet Secretariat.
Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.	The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.	

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ippendix -II

# CONTENTS OF THE MOTION AS ADOPTED BY THE WEST BENGAL LEGISLATIVE ASSEMBLY ON 24,12.98.

This House notes with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereabouts of Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

# GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

S.O. Whereas the Shah Nawaz Khan Committee and Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952),



the Central Government hereby appoints a Commission of Inquiry consisting of

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts:

  The Commission Shoul also examine the manner in which the exercise of Scrutiny of Poulications touching upon the question of death or otherwise of Netapi Coule undertaken by the Got in the Circumstances
- 3. The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- 5. The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No.VI/11034/18/98-IS(D.III)

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# List of the tentative staff require for the Commission

1. Chairman (Rs.30,000 fixed) 1	
2. Secretary(Rs.14,300-18,300)	
3. Officer on Special Duty 1 (Rs.12,750-16,500)	
4. Court Master 1 (Rs.10,000-15,200)	
5. Section Officer 2 (Rs.6,500-10,500)	
6. Assistant 2 (Rs.5,500-9000)	
7. Accountant 1 (Rs.5,500-9000)	
8. Cashier 1 (Rs.5,500-9000)	
9. Typist (Rs.3,050-4,590)	
10. Principal Pvt.Secy. 1 (Rs.10,000-15,200)	
11. Private Secretary (Rs.6,500-10,500)	
12. Steno Gr'C' 2 (Rs.5,500-9,000)	
13. Peon 3 (Rs.2550-3200)	

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		Secret
14.	Jamadar (Rs.2610-3540)	1
15.	Safaiwala (Rs.2550-3200)	1 ;
16.	Bailiff	1
17.	Process Server	1



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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

#### NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

#### Background:

Netaji's reported death in an aircrash at Taihoku 1. (Formosa) on 18th August, 1945 has continued to be a topic of National debate. As the news of his death was not found stat credible, Government of India had instituted an enquiry in April, 1956 to ascertain the truth. Shri Shah Nawaz Khan headed a Committee that conducted this enquiry and held that Netaji had indeed died and his mortal remains were kept in Renkoji Temple, Tokyo. This was, however, not accepted by some sections of our people though the Government accepted the report. Following a demand for fresh enquiry by a number of members of Parliament, the Government of India once again instituted a judicial enquiry in July, 1970 under Mr. Justice G.D. Khosla. His finding was similar. But that too did not find universal acceptance though once again the Central Cabinet accepted the finding in August, 1974.

### Subsequent developments-Response of India's Prime Minister in 1978:

2. Subsequently, Shri Samar Guha, M.P., raised this matter in the Lok Sabha on a few occasions demanding another enquiry. In 1978, Shri Morarji Desai, then Prime Minister, responded to this by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

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#### Immediate cause of action:

3. Much later arose the question of bringing back Netaji's mortal remains from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed a Writ Petition No.281 in Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's disappearance. A few other almost identical Writ Petitions touching upon issues like 'Posthumous' grant of 'Bharat Netaji, whether he was declared. as a criminal, under what circumstances his mortal remains can at at all be brought back to India etc. have also received attention of Hon'ble Supreme Court, and the High Courts of Calcutta and Orissa. The Calcutta High Court has responded to the mentioned Writ Petition of Shri Bhattacharjee by issuing directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:

> "a) whether Netaji Subhas Chandra Bose is dead or alive;

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- b) if he is dead whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese Temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

#### Resolution of West Bengal Legislative Assembly:

4. The West Bengal Legislative Assembly also, on 29.12.98, adopted a motion demanding:

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

### Exploring avenues to meet the developments-meeting of eminent opinion makers:

In order to discuss the manner in which action is 5. to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly, a meeting of eminent persons was convened by the Union Home Minister on 25.3.99. The invitees included close associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the matter. Some of the persons who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Defence, Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal could not attend, but sent her views which were circulated to all present. While the deliberations in the meeting centred around what has come out so far in historical perspective and the findings of both Shah Nawaz Khan Committee and the Khosla Commission's reports, in the ultimate analysis it was felt that in order to take the matter to its logical end and that also once for all, it would be adviseable to setup another Commission of Inquiry as a very special case for the

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

purpose of arriving at a definite conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

#### Proposed action plan:

6. Accordingly, it is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are at Annexure-II. It is further proposed that retired Judges of High Courts or Supreme Court may be nominated to conduct the enquiry.

#### Cabinet Decision solicited:

- 7. Directions of the Cabinet are solicited for appointment of a Commission of Inquiry as proposed in para 6 above. The draft notification is at Appendix-III.
- 8. A tentative requirement of supporting staff for the Commission is at Appendix-IV. Creation of these posts may also be approved.
- 9. A statement of implementation schedule is at Appendix-I.
- 10. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard. Views of Ministry of Finance may be obtained in the meeting.
- 11. The Home Minister has seen and approved the Note.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: 31st March, 1999

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APPENDIX-T

## NO.VI/11034/18/98-IS(D.III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS *******

#### STATEMENT OF IMPLEMENTATION SCHEDULE

Subject:- Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Gist of the decision required	Projected benefits/results	Time schedule for manner of implementation/reporting to Cabinet Secretariat.
Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.	The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.	Steps for appointment of the Commission will be taken immediately on Cabinet approval.

-52- Appendix -II

### CONTENTS OF THE MOTION AS ADOPTED BY THE WEST BENGAL LEGISLATIVE ASSEMBLY ON 24,12.98.

This House notes, with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereabouts of Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.



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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952),

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the Central Government hereby appoints a Commission of Inquiry consisting of

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;

(e) if he is alive, in respect of his whereabouts:.

The Commission Shall also examine the manner in which the exercise of Scrufiny of Policetions touching upon the guestion of death or otherwise of Netopi Con he undertaken by the Got in the Circumstances

- 3. The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No.VI/11034/18/98-IS(D.III)

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# List of the tentative staff require for the Commission

Sl. No.	Designation & Scale of Pay	Date	No.of	Post
1.	Chairman (Rs.30,000 fixed)		1	
2.	Secretary(Rs.14,300-18,300)		1	
3.	Officer on Special Duty (Rs.12,750-16,500)		1	
4.	Court Master (Rs.10,000-15,200)		1	
5.	Section Officer (Rs.6,500-10,500)		2	
6.	Assistant (Rs.5,500-9000)		2	
7. !	Accountant (Rs.5,500-9000)		1	
8.	Cashier (Rs.5,500-9000)		1	
9.	Typist (Rs.3,050-4,590)		2	
10.	Principal Pvt.Secy. (Rs.10,000-15,200)		1	
11.	Private Secretary (Rs.6,500-10,500)		2	
12.	Steno Gr'C' (Rs.5,500-9,000)		2	
13.	Peon (Rs.2550-3200)		3	

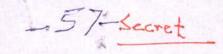


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14.	Jamadar (Rs.2610-3540)	1
15.	Safaiwala (Rs.2550-3200)	. 1
16.	Bailiff	1

Process Server

17.





#### RECORD OF DISCUSSIONS HELD IN THE CHAMBER OF HOME MINISTER ON 25.3.1999 AT 12.P.M.

The list of invitees attended the meeting is at Annexure-I.

- The Union Home Minister presided over the meeting and stated that two earlier Commissions of Inquiry had gone into the issue regarding the alleged disappearance of Netaji Subhas Chandra Bose. The findings of these Commissions were accepted by the Government. Thereafter, there was a move to bring back the mortal remains of Netaji Subhas Chandra Bose from the Renkoji Temple in Tokyo, Japan. However, some doubts on the conclusive nature of the findings lingered on in the public mind. In 1978, then Prime Minister Morarji Desai also made a statement in Parliament in response to a motion initiated by Shri Samar Guha, MP calling for a fresh enquiry. Since then the Government has not been able to come to any specific conclusion on this issue and the matter has remained unresolved. In the mean time, there have been some judicial pronouncements including the latest one from Calcutta High Court in April, 1998 in W.P. No. 281 in which directions have been given for initiating a 'vigorous enquiry' in order to put an end to the controversy once for all. This has also been backed-up by the resolution of the West Bengal Assembly on 24.12.1998 urging the Government of India to institute a fresh enquiry commission in the matter. Home Minister then invited response of the eminent
- persons present in the meeting in order to determine the response of the Government of India to these demands.
- Col. Laxmi Sehgal who could not attend the meeting had sent her written response which was circulated amongst the invitees.
- Col. Dhillon mentioned that he was convinced that the mortal remains kept in Renkoji Temple are 10 f Netaji and the General Fujiwara came to India 15 times and requested that the Government of India should take responsibility to lookafter the mortal remains. The people who were closely

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associated with Netaji would not lie about the fact of his death. However, there are still some people who feel out of their great reverence for Netaji that he is not dead and in a democracy, people's feelings have to be respected.

- G. Justice Narula raised the question as to whether it was possible to have a D.N.A. test of the mortal remains conducted in order to determine whether they were those of Netaji. However, during subsequent discussions on this issue it was felt that apart from the technical feasibility of having a D.N.A. test conducted, it would appear to be almost a case of sacrilege to have such a test done.
- 7. Dr. Sisir Kumar Bose recounted that as the surviving senior most member of Netaji's family, he has all along worked at preserving the heritage of Netaji. He stated that he had no doubt whatsoever that the remains preserved in Renkoji Temple in Japan are those of Netaji. He then narrated 12 points to which the Government should apply their mind in order to confirm the fact of death of Netaji. These points are as follows:
  - a) The testimony of Col. Habibur Rehman which is on the file of the Government.
  - b) The testimony of survivors of the aircrash at Taipei.
  - c) The testimony of Mr. Nakamura who was interpreter of Netaji in the Hospital at Taipei.
  - d) The testimony of Dr. Yoshimi who treated Netaji i.e. Dr. Bose felt that a 'final signed testimony' should be taken from him by the Government of India.
  - e) The testimony of two nurses and nursing orderly who attended to Netaji before he died.
  - f) Report of one Shri John Figgess who investigated the crash- a copy of this report should be obtained from the Government of Britain.

    g) Two reports of Intelligence Officers, who were
  - g) Two reports of Intelligence Officers, who was e sent by India to Saigon and Taipei in 1948.

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- h) Book of Harin Shah an Indian Journalist who went to Taipei in 1946.
- i) Report of Shri S.A. Ayyar who went to Tokyo in 1951 which is available in Parliament Library.
- j) Various reports and statements available in the National Archives.
- k) Speech of a Russian National regarding the reported escape of Netaji which can be procured from the Russian Embassy.
- 1) The testimony of Shri S.N. Maitra who is presently available in Shanti Niketan, W.B.
- 8. Dr. Sisir Kumar Bose also said that the Government of India was to blame because it never took the people of India into confidence by presenting the facts surrounding Netaji's death openly before the public. He praised the initiatives taken by the Union Home Minister in this regard now.
- Shri Soli Sorabji examined the judgement of the Calcutta High Court and the interim response given by us to the notice of the Advocate Shri Rudra Jyoti Bhattacharjee and he endorsed the action taken. Shri Soli Sorabji concurred in the view propounded by the Union Home Minister that we must follow the directive of the Calcutta High Court as well as the resolution of the West Bengal Assembly to resolve this issue once for all by appointing a Commission of an Inquiry. Earlier Home Minister had felt that instead of an administrative inquiry there should be a Commission of Inquiry as the earlier two inquiries were in the nature of Commissions of Inquiry and it will not be received well by the public if a new enquiry is in the nature of administrative enquiry. During the deliberations on this issue, Shri Soli Sorabji also suggested that the judge who would head the Commission should inspire _____ confidence and should be acceptable to the people of the country as a whole. This point received support from others as

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10. On the issue whether Netaji had been declared a 'war criminal' by the British Government, the Union Home Minister stated that the fact that Netaji's name was not on any such list drawn-up by the British Government has been clarified in his reply to a Parliament question. It was felt by the invitees that this matter should be given wider publicity through press.

11. On the second para of the directions of the Calcutta High Court regarding prescription of books which touch upon the death of Netaji, it was felt that the matter needed further incisive examination by relevant quarters and this sould be examined separately.

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LIST OF INVITEES

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ANNEXURE-I

- 1. Col. G.S. Dhillon
- 2. Dr. Sisir Kumar Bose
- 3. Justice(Retd) R.S. Narula
- 4. Shri D.B. Kalmankar
- 5. Shri Brajesh Mishra, Prl. Secy.to PM
- 6. Shri Soli Sorabji, Attorney General of India
- 7. Shri B.A. Aggarwal, Joint Secretary, Legal Adviser.
- 8. Shri B.P. Singh, Home Secretary
- 9. Shri P.R. Dasgupta, Education Secy.
- 10. Shri K.Raghunath, Foreign Secretary
- 11. Shri B.S. Lalli, Joint Secretary, MOD.

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#### SECRET

COPY NO.

# FILE NO VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS *****

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Netaji's reported death in an aircrash at Taihoku (Formosa) on 18th August, 1945 has continued to remain a topic of debate. As the news of Netaji's death was not believed to be credible, the Government of India had instituted an enquiry in April, 1956 to ascertain the truth. Shri Shah Nawaz Khan Committee conducted this enquiry and held that Netaji had indeed died. This was, however, not accepted by some sections of the people though the Government accepted the report. However, following a demand for fresh enquiry by a number of members of Parliament, the Government of India once again instituted a judicial enquiry in July, 1970 under Mr. Justice G.D. Khosla. His finding was also similar. But that too did not find universal acceptance though once again the Central Cabinet accepted the finding ef the Khosla Commission in August, 1974.

Subsequently, Shri Samar Guha, Hon'ble M.P., raised this matter in the Lok Sabha on a few occasions demanding another enquiry. However, In 1978, Shri Morarji Desai, then Prime Minister, responded to this by stating that: "the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been

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File No. VI/11034/18/98.D(III) Ministry of Home Affairs

cast on the correctness of the conclusions reached in the two reports and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

- ashes from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed a Writ Petition in Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. The Calcutta High Court has responded to this Writ Petition by asking for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:
  - a) whether Netaji Subhas Chandra Bose is dead or alive:
  - b) if he is dead whether he died in the plane crash, as alleged:
  - c) whether the ashes in the Japanese Temple are ashes of Netaji:

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File No. VI/11034/18/98.D(III) Ministry of Home Affairs

- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P.No.1805 of 1997 namely, to take the people of India in confidence.

- Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of violence.
- Respondents, if so advised, shall inform all publication House to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."
- The West Bengal Legislative Assembly also, on 29.12.98, adopted a motion demanding that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose."
- 7. In order to discuss the manner in which action to be initiated in view of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly,







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whereabouts of Netaji Subhas Chandra Bose.

- 7. In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly, a meeting of eminent persons was convened by the Union Home Minister on 25.3.99. The invitees included close associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the Some of the persons who attended are: Col. G.S. matter. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd.) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Defence, Department of Education, Ministry of Law, etc. Col. Laxmi Sehgal could not attend, but sent her views which were circulated to all present. Although various members held different views about the controversy, it was felt that a Commission of Inquiry should be set up as a special case for the purpose of arriving at a conclusion regarding the disappearance of Netaji Subhas Chandra Bose.
- 8. Accordingly, it is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are at Annexure II. It is further proposed that a retired Judge of the Calcutta High Court or Supreme Court may be nominated to conduct the enquiry.

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- 9. Action on decisions of the Calcutta High Court mentioned at para 4 and 5 will be possible only after the submission of the Report by the Commission.
- Directions

  are solicited

  10. Approval of the Cabinet is sought for appointment of a

  Commission of Inquiry as proposed in para 8 above. The draft

  notification is at Appendix III.

  11. A tentahive requirement of supporting staff the Commission is

  11. A tentahive requirement of Supporting staff the Commission is

  11. A statement of implementation schedule is at Appendix I.
- 13. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard. Views of Ministry of Finance may be obtained in the meeting.

12. The Home Minister has seen and approved the Note.

(NIKHIL KUMAR) SPECIAL SECRETARY

Date: 31st March, 1999

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COPY NO.

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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

#### NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

India's fost Independence history has Continued to Suffer sexpressed from an agent sing Syndrome' due to a guestion mark on the cultural surface of Netasi Suhhas chulva Bosegreported demise in a Plane Crosh.

Infact, Netaji's reported death in an aircrash at Taihoku (Formosa) on 18th August, 1945 has continued to remain a topic of debate. As the news of Netaji's death was believed to be credible, the Government of India instituted an enquiry in April, 1956 to ascertain the truth. Shri Shah Nawaz Khan Committee conducted this enquiry and held that Netaji had indeed died. This was however, accepted by some sections o f the people though Government accepted the report. However, following a demand for fresh enquiry by a number of members of Parliament, the Government of India once again instituted a judicial enquiry in July, 1970 under Mr. Justice G.D. Khosla. His finding was also similar. But that too did not find universal acceptance though once again the Central Cabinet accepted the finding of the Khosla Commission in August, 1974.

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Subsequently, Shri Samar Guha, Hon'ble M.P., raised this matter in the Lok Sabha on a few occasions demanding Inline another enquiry. However, in 1978, Shri Morarji Desai, then Prime Minister, responded to this by stating that: "the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusios ns reached in the t wo repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, Government finds it difficult to accept that





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#### File No.VI/11034/18/98.D(III) Ministry of Home Affairs

the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

Much later arose the question of bringing back Netaji's ashes from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed a Writ Petition in Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. The Calcutta High Court has responded to this Writ Petition by issuing directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:

- "a) whether Netaji Subhas Chandra Bose is dead or alive;
- b) if he is dead whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese Temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

4. Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement of violence.

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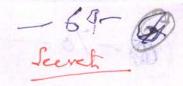
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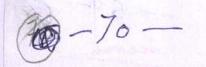
5. Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

- 6. The West Bengal Legislative Assembly also, on 29.12.98, adopted a motion demanding "that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".
- 7. In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly, whereabouts of Netaji Subhas Chandra Bose.
- 8. In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly, a meeting of eminent persons was convened by the Union Home Minister on 25.3.99. The invitees included close associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the matter. Some of the persons who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Defence, Department of Education, Ministry of Law, etc. Col. Laxmi Sehgal could not attend, but sent her views which were

Resolution of West Bengal Legislativa Assembly

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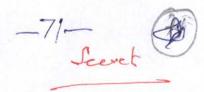
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#### File No.VI/11034/18/98-D(III) Ministry of Home Affairs

circulated to all present. Although various members held different views about the controversy, it was felt that a Commission of Inquiry should be set up as a special case for the purpose of arriving at a conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

- 9. Accordingly, it is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are at Annexure-II. It is further proposed that a retired Judge of High Court or Supreme Court may be nominated to conduct the enquiry.
- 10. Action on decisions of the Calcutta High Court mentioned at para 4 and 5 will be possible only after the submission of the Report by the Commission.
- 11. Directions of the Cabinet are solicited for appointment of a Commission of Inquiry as proposed in para 9 above. The draft notification is at Appendix-III.
- 12. A tentative requirement of supporting staff for the Commission is at Appendix-IV. Creation of these posts may also be approved.
- 13. A statement of implementation schedule is at Appendix-I.
- 14. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard.
- 15. The Home Minister has seen and approved the Note.

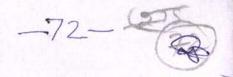
(NIKHIL KUMAR) Special Secretary(ISP)

Date: 31st March, 1999

Proposal action

Approval of the Carlinat Sought





SECRET MOST IMMEDIATE

## Government of India Ministry of Home Affairs IS-I Division ****

Enclosed please find copy of a Draft Note for the Cabinet on the subject of appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. Appendix-III of the Draft Cabinet Note contains the terms of reference of the proposed Commission of Inquiry. Law Ministry is requested to see the Draft Cabinet note with special reference to Appendix-III for the purpose of vetting.

This may kindly be treated as urgent.

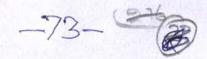
&

(SANGITA GAIROLA)
Joint Secretary(IS-I)

Shri B.A. Aggarwal, Joint Secretary & Legal Advisor, Ministry of Law, Department of Legal Affairs, Shastri Bhawan, N.Delhi MHA UO No.VI/11034/18/98-D(III) Dated 1st April, 1999.

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SECRET MOST IMMEDIATE

## Government of India Ministry of Home Affairs IS-I Division ****

Enclosed please find copy of a Draft Note for the Cabinet on the subject of appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. Appendix-IV of the Draft Cabinet Note contains some details of posts which will be required for the Commission. Ministry of Finance is requested to see the Draft Cabinet Note with special reference to this Appendix-IV for the purpose of concurrence to sanction of these posts alongwith the required budgetary provisions etc.

This may kindly be treated as urgent.

(SANGITA GAIROLA)
Joint Secretary(IS-I)

114

Shri E.A.S. Sarma, Secretary (Expenditure), Ministry of Finance, Department of Expenditure, New Delhi.

MHA UO No.VI/11034/18/98-D(III) Dated 1st April, 1999.



_74-

Secret Most Immediate

## Government of India Ministry of Home Affairs IS-I Division

I am desired to invite the kind attention of Secretary(Expenditure), Ministry of Finance to the UO note of even number dated 1st April, 1999 from Smt. Sangita Gairola, Joint Secretary(IS-I) in this Ministry enclosing therewith a draft Cabinet Note on the subject of appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose and to request that the required comments/concurrence to sanction the posts mentioned in Appendix-IV alongwith the required budgetary provisions etc. may kindly be provided to this Ministry.

- This may kindly be treated as urgent.
- 3. This issues with the approval of Joint Secretary (IS-I) in the Ministry of Home Affairs.

(V.P. BHATIA)
Under Secretary(IS-I)

Shri E.A.S. Sarma, Secretary (Expenditure), Ministry of Finance, Department of Expenditure, New Delhi.

MHA UO No.VI/11034/18/98-D(III) Dated the 8th April,1999.

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At once

please or 814

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Secret Most Immediate

#### Government of India Ministry of Home Affairs IS-I Division ***

Attention is invited to the UO note of even number dated 1st April, 1999 enclosing therewith a draft Cabinet Note on the subject of appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. The said draft Cabinet Note, duly vetted by the Ministry of Law has not yet been received back in the Ministry of Home Affairs.

Since the matter is urgent, I am desired to request that the response from the Ministry of Law may kindly be provided to this Ministry expeditiously.

> (V.P. BHATIA) Under Secretary(D.IV)

Shri B.A. Aggarwal, Joint Secretary & legal Adviser, Ministry of Law, Department of Legal Affairs, Shastri Bhawan, New Delhi.

MHA UO No.VI/11034/18/98-D(III) Dated 8th April, 1999.

Out Today maranear.



India's Post Independence history has continued to suffer from an 'agonizing syndrome' due to a question-mark on the authentic basis of Netaji Subhas Chandra Bose's reported demise in a plane crash. So over-whelming has been the 'revolutionary' image of Netaji in Indian minds that today he stands virtually transformed as a 'legend extra-ordinary' of contemporary India.

Mahatma Gandhi, the Father of the Nation had such a unique affection and respect for Netaji Subhas Chandra Bose that despite their honest differences in approach towards attaining the goal of India's Freedom, Mahatma Gandhi continued to regard him as one of the greatest 'patriots' of the Motherland. We are too near the modern history of India to really make an in-depth assessment of the shining contribution of Netaji to the very upliftment of India as a Nation in the eyes of the world. But posterity will certainly find a remarkable glow in the personality image of this great son of India who had the unique humility of surrendering to the Father of the Nation with all the reverence after just once registering his 'symbolic gesture of disagreement' on a matter of principle in India's Independence Movement. History has rarely seen such lights of human sentiments.

In this background, Netaji's reported death in an air-crash at Taihoku (Formosa) on 18th August, 1945 continues to remain a subject of National debate.



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2103/15(157)29 Rudra Jyoti Bhattacharjee Residence: B. Sc., D.B.M., M.B.I.M., LL.B. FLORA PARK, GOALTULI **ADVOCATE** P.O. & Dist. Hooghly High Court, Calcutta Pin-712 103 Bar Association Room No. 2 Ph.: 80-3634 248-3190 Regd.with A/D 248-5579 5-4-1999 Date 248-3169 To, Sangita Gairola

To,
Sangita Gairola
Joint Secretary (IS I)
Ministry of Home Affairs,
Government of India
North Block,
New Delhi 2110 001

Dear Mrs. Gairola,

I Acknowledge your communication dated 19th March, 1999 regarding intendment of the Government to set-up an Enquiry Commission in compliance with the order dated 30-4-1999 passed by the Hon'ble High Court Calcutta.

In this context, I would like to invite attention of the Ministry of Home Affairs for being circumspective enough so that the Commission formed by the Government may not be influenced by the congress leaders and/or their retinue like Dr. Sisir Bose, Col. Dhilon and such others.

I further assure you that if the Enquiry Commission is held fairly without any external influence the mystery would be unearthed.

Thanking You

Yours sincerely,

ADVOCATE

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#### Ministry of Finance Department of Expenditure

E.Coord. I Branch

kindly refer may U.O.No.VI/11034/18/98 D(III) dated the 1st April, 1999 forwarding therewith a Draft Note for the Cabinet regarding appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. While setting up of the Commission of inquiry would be decided by the Cabinet, this Department offer the following comments:-

- Two enquiries, first under Shri Shah Nawaj Khan in 1956 and a judicial enquiry under Justice G.D Khosla in 1970 have already been conducted. Both the enquiries held that Netaji had died and his mortal remains were kept in Renkoji Temple, Tokyo. It is doubtful if after a lapse of so many years, a fresh enquiry would yield different results. The setting up of another Commission seems avoidable.
- No tenure for the Commission of Inquiry has been prescribed. This is required so as to ii. assess the financial implications.
- iii. Budgetary support required has not indicated and is required to be brought out.

In keeping with the Department of Expenditure's O.M. dated 8.10.1987 relating to terms and conditions of retired judges appointed as Chairman/Members of Commissions of Inquiry, the pay scale for the Chairman would be Rs.30,000/only if he is a retired judge of the Supreme Court or Chief Justice of a High Court. The Cabinet Note is required to be modified accordingly.

As regards creation of other posts, proposal should be referred on file bringing out full functional justification for creation each post duly supported by matching savings.

This issues with the approval of Finance Minister.

> ( SHYAM SUNDER 5 Under Secretary(C) 12.4.1999

MHA (Ms. SANGITA GAIROLA, JS MOF (Exp) U.O.No.378/E.Coord.I/99 dt.12.4.1999 SANGITA GAIROLA,

12.4.99

Kindly Lee and afterdisensing the issues with Js (ts-I) please handle this! The file is him Js (ts-I) So kindly obtain that from the army scripping.

### MINISTRY OF HOME AFFAIRS ****

Enclosed is a copy of Draft Cabinet Note pertaining to institution of an Inquiry Commission to enquire into the disappearance of Netaji Subhas Chandra Bose. The Hindi version of the Note may be prepared immediately for making copies to be sent to the Cabinet Secretariat TODAY. This may be treated as most immediate.

> JS(IS-I) 21.4.1999

21-4-99 21-4-99 21-4-99

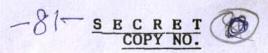
Director (OL) JUNI 3915+ & 34MOCT 252, 1 FERRI BARIN STORE

इस्ताक्षरार्ध प्रस्तुत है।

संजीता भेदीला 21/4/99

कं.व (आमुक्) विशेष सचिव (अर्दे भेरा पी)





# FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****



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#### NOTE FOR THE CABINET

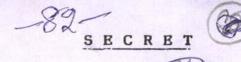
Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

#### 1. Background:

- Netaji Subhas Chandra Bose, one of India's greatest sons, described as a "patriot of patriots" by Gandhiji, was fiercely committed to the cause of India's freedom. He believed that the British had to, and could, be driven away through armed action. He founded the Azad Hind Sarkar and led the Indian National Army (INA), in the fight against the British. He tirelessly moved from Malaya to Singapore, to Burma to Japan mobilising support and planning tactics and succeeded in getting Japan to extend its aid. He was on one of his missions when his airplane crashed immediately after take-off in Taihoku (Formosa), on 18 August, 1945.
- 1.2 Netaji had by then created an undying image for himself amongst his countrymen and such was his aura, and the awe in which he was held, that the report of his demise in a hospital, following the crash, was not universally accepted and, in fact, there has been an agonising question mark over it.
- 1.3 Government of India took note of the sentiment of millions of Indians who debated the veracity of the report of the aircrash and his subsequent death. It decided to institute an enquiry to ascertain the truth. In April, 1956, it was headed by Shri Shah Nawaz Khan, a close associate of Netaji, and it comprised Shri Sisir Bose and Shri S.N. Maitra. A majority of this committee, after a full enquiry,

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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

concluded that Netaji had indeed died in the plane crash and his mortal remains were kept in Renkoji Temple in Japan. The Government accepted this finding but it was not accepted by some sections of our people.

1.4 Demands were made by a number of Members of Parliament for a fresh enquiry. The Government of India, therefore, decided to set up a Judicial enquiry. In July, 1970, Justice G.D. Khosla was appointed to head this Commission of Inquiry. He completed his enquiry and he also concluded that Netaji had died as a result of the plane crash. The Central Cabinet accepted the finding of this Commission of Inquiry in August, 1974. But once again this finding did not gain universal acceptance such was Netaji's persona and his popular charisma.

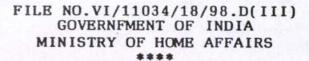
### 2. Subsequent developments-Response of India's Prime Minister in 1978:

2.1 Shri Samar Guha, M.P., one of those with whom the report of Netaji's demise did not carry credibility, raised the matter in the Lok Sabha on a number of occasions and demanded another enquiry. On 28th August, 1978, Shri Morarji Desai, the then Prime Minister, responded to this in the Lok Sabha by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and Those records foot finds it difficult to accept that The earlier conclusions are decidive.

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those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon. friend will withdraw his motion".

2.2 Shri Samar Guha replied as follows:-

"Sir, Today is a great day for the whole Indian people because a mortal sin, a treacherous crime that was committed against the epic hero of Indian freedom has been undone. If I say that Netaji was given burial, out of political conspiracy, it would not be an exaggeration. Although there was not an iota of doubt or any positive proof to the contrary that the plane crash was nothing but fake, and the alleged crash did not involve Netaji at all."

#### 3. Immediate cause of action:

3.1 Much later arose the question of bringing back Netaji's mortal remains from Japan. It was felt that this could be done only if public opinion favoured it. While efforts to build such a favourable public opinion about this were to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed Writ Petition No.281 in the Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. A few other almost identical Writ Petitions were filed in the Supreme Court and the High Courts of Calcutta and Orissa. These touched upon issues like the 'posthumous' grant of the 'Bharat Ratna' to Netaji,

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS



whether he was declared a war criminal, under what circumstances his mortal remains can at at all be brought back to India, etc.

- 3.2 The Calcutta High Court in its verdict dated 30.4.1998 on the Writ Petition of Shri Bhattacharjee issued directions for "a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry" as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:
  - "a) whether Netaji Subhas Chandra Bose is dead or alive;
    - b) if he is dead whether he died in the plane crash, as alleged;
  - c) whether the ashes in the Japanese Temple are ashes of Netaji;
  - d) whether he has died in any other manner at any other place and, if so, when and how;
  - e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and proscribe, if necessary, all

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS



such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

### 4. Resolution of West Bengal Legislative Assembly:

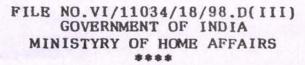
4.1 The West Bengal Legislative Assembly also, on 29.12.1998, adopted a motion demanding;

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

- 4.2 The full text is at Appendix-II.
- 4.3 The State Government has recommended setting up of an enquiry into the mysterious disappearance of Netaji Subhas Chandra Bose. Its letter is at Appendix-III.
- 5. Exploring avenues to meet the developments-meeting of eminent opinion makers:
- 5.1 Government of India took note of the judgement of the Calcutta High Court and the motion passed by the West

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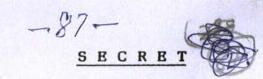
Bengal Legislative Assembly. A meeting of eminent persons was convened by the Union Home Minister on 25.3.1999 to discuss the manner in which action be taken to give effect to the directions of the Calcutta High Court and the motion of the West Bengal Legislative Assembly. The invitees were close associates of Netaji Subhas Chandra Bose as well as some other persons whose views would be crucial intaking a decision in the matter. Those who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal invited, could not attend, but she sent her views which were circulated to all those who attended the meeting.

5.2 Discussions in the meeting were based on the personal knowledge and experiece of those present, the findings of the Shah Nawaz Khan Committee and the Khosla Commission. It was ultimately felt that in order to take the matter to its logical end and that also once for all, it would be advisable to setup another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding Netaji Subhas Chandra Bose.

### 6. Proposed action plan:

6.1 It is, therefore, proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are contained in the draft notification which is at Appendix-IV.

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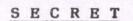
### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- 6.2 It is also proposed that the Chief Justice of India may be approached to suggest the name of a suitable person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry.
- It is further proposed to have a number of posts 6.3 created viz one post of Chairman; one post of Secretary; one post of Officer on Special Duty and 21 other posts representing the supporting staff in the scales of pay indicated against each post in the statement at Appendix-V with a view to enable the Commission to commence functioning The number of posts projected at without undue delay. Appendix-V, depending upon the functional requirement once may go up further. This the Commission gets going, additional requirement of further posts also needs to be kept in view.

#### 7. Approval sought:

- 7.1 Approval of the Cabinet is therefore solicited to the following:-
  - (i) Appointment of a Commission of Inquiry as proposed in para 6.1 and 6.2 above and;
  - (ii)Creation of initial requirement of supporting staff for the Commission as contained in para 6.3 above.
- 8. A statement of implementation schedule is at Appendix-I.

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

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- 9. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and are yet to be received. Their views may be ascertained in the meeting.
- 10. Views of Ministry of Finance have been obtained (Appendix-VI). The overall financial implication for the creation of posts as proposed at Appendix-V works out to approximately Rs. 38,80,000 p.a. Specific proposals for creation of posts would be moved on file separately to Ministry of Finance (Department of Expenditure) once the proposal is approved.
- 11. This note has been seen and approved by the Home Minister.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: April, 1999

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APPENDIX-

NO.VI/11034/18/98-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

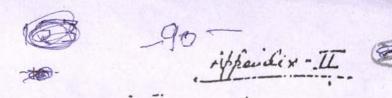
### STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: - Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

ist of the decision required	Projected benefits/results	Time schedule for manner of implementation/reporting to Cabinet Secretariat.
Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose and Creation of posts with regard thereto	The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.	Steps for appointment of the Commission will be taken immediately on Cabinet approval.

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### CONTENTS OF THE MOTION AS ADOPTED BY THE WEST BENGAL LEGISLATIVE ASSEMBLY ON 24,12.98.

This House notes, with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War:

that different statements were made on the floors of Parliament at different times regarding whereabouts of Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

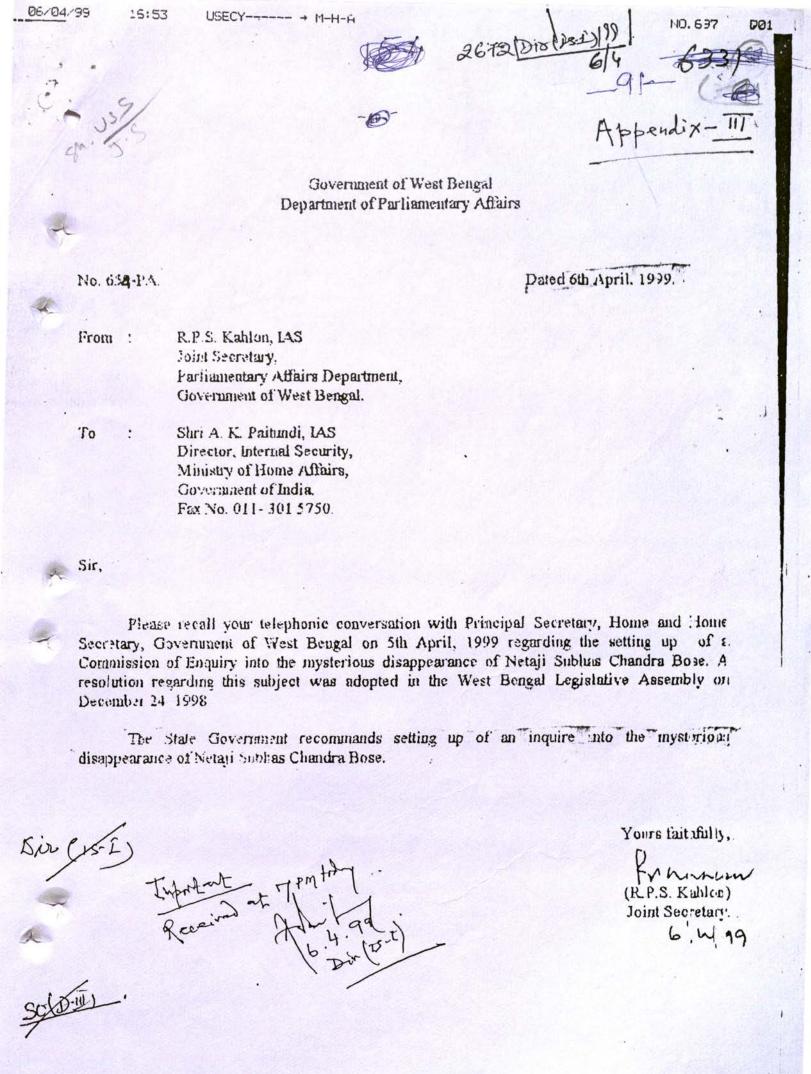
that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

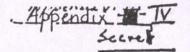
This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.











(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(11) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952), the Control 9 out hereby of points a Commission of Inquiry, Consequing





- 120 -

Secret

the	Central	Government	hereby	appoints	a	Commission	of	Inquiry
	isting							

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts:

  The Commission Shoul also examine the manner in estich the expensive

  of Scrutiny of Publications touching upon the question of death

  or otherwise of Netapi Coule undertaken by the Gott in the liverestances
- 3. The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No. VI/11034/18/98-15(D.III)

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# List of the lentative staff require for the Commission:

S1 No	Designation & Scale of Pay	Date	No.of Post
1.	Chairman (Rs.30,000 fixed)		1
2.	: Secretary(Rs.14,300-18,300)		1
3.	Officer on Special Duty (Rs.12,750-16,500)		1
4.	Court Master , (Rs.10,000-15,200)		1
5.	Section Officer (Rs.6,500-10,500)		2
6.	Assistant (Rs.5,500-9000)		2
7	Accountant (Rs.5,500-9000)		1
8.	Cashier . (Rs.5,500-9000)		1
9.	Typist (Rs.3,050-4,590)		2
10.	Principal Pvt.Secy. (Rs.10,000-15,200)		1
11.	Private Secretary (Rs.6,500-10,500)		2
12.	Steno Gr'C' (Rs.5,500-9,000)		2
15.	Peon (Rs.2550-3200)		3

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- 14. Jamadar (Rs.2610-3540)
- 15. Safaiwala (Rs.2550-3200)
- 16. Bailiff
- 17. Process Server

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APPENDIX-VI

File No. VI/11034/18/98.D(III) Ministry of Home Affairs



CABINET NOTE ON APPOINTMENT OF A COMMISSION OF INQUIRY TO ENQUIRE INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE

Analysis of the Comments received from Ministry of Finance,
Department of Expenditure

S.No.

Comments

MHA's clarification

- 1. Two enquiries, first in 1956 and second in 1970 have already been conducted holding that Netaji had died. It is doubtful if after a lapse of so many years a fresh enquiry would yield different results. The setting up of another Commission seems avoidable.
- The present Commission under the Commission of Inquiry Act is being proposed in compliance of the judgement of the Calcutta High Court on Writ Petition No. 281 and a Motion adopted in the West Bengal Legislative Assembly on 29.12.98, which has been duly recommended by the West Bengal Government.
- 2. No tenure for the Commission of Inquiry has been prescribed. This is required so as to assess the financial implications.
- The draft notification (Appendix-IV) prescribes a term of 6 months for the Commission.
- 3. Budgetary support required has not been indicated and is required to be brought out.
- Approximately, an amount of Rs. 38,80,000 per annum will be required on account of salary for the Chairman and other officers/staff mentioned in the statement Appendix-V. at However, this is the initial requirement for enabling the commence Commission to and may go up functioning, further depending on the actual requirement.
- In keeping with the Department of Expenditure's O.M. dated 8.10.1987 relating to terms and conditions of retired judges
- The proposal contained in para 6.2 viz. to appoint a person from amongst retired Judges of High Courts or the Supreme



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### File No. VI/11034/18/98.D(III) Ministry of Home Affairs

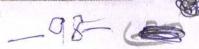
appointed as Chairman/Members of Commissions of Inquiry, the pay scale for the Chairman would be Rs. 30,000/- only if he is a retired judge of the Supreme Court or Chief Justice of a High Court.

Court of India to conduct the enquiry is tentative and would depend on the approval of the Cabinet.

5. As regards creation of other posts, the proposal should be referred on file bringing out full functional justification for creation of each post duly supported by matching savings

A specific proposal will be moved on file separately for the creation of the posts bringing out full functional justification for each post and will be referred to the Ministry Department of Expenditure, after approval in principle by Cabinet.





SANGITA GAIROLA JOINT SECRETARY

GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

D.O.No. VI/11034/18/98.D(III)

New Delhi, the 21st April, 1999

I am sending herewith 45 copies each (in Hindi and English) of the Cabinet Note on appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. It is requested that this item may be included in the agenda for consideration by the Cabinet in its next meeting.

With regards,

Yours sincerely,

( Sangita Gairola )

Josus p. Benk No 10

Shri P. Gopalakrishnan, Deputy Secretary, Cabinet Secretariat, Rashtrapati Bhavan, NEW DELHI.

Encle. As above



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S E C R E T COPY NO.

# FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

#### NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

#### 1. Background:

- 1.1 Netaji Subhas Chandra Bose, one of India's greatest sons, described as a "patriot of patriots" by Gandhiji, was fiercely committed to the cause of India's freedom. He believed that the British had to, and could, be driven away through armed action. He founded the Azad Hind Sarkar and led the Indian National Army (INA), in the fight against the British. He tirelessly moved from Malaya to Singapore, to Burma to Japan mobilising support and planning tactics and succeeded in getting Japan to extend its aid. He was on one of his missions when his airplane crashed immediately after take-off in Taihoku (Formosa), on 18 August, 1945.
- 1.2 Netaji had by then created an undying image for himself amongst his countrymen and such was his aura, and the awe in which he was held, that the report of his demise in a hospital, following the crash, was not universally accepted and, in fact, there has been an agonising question mark over it.
- 1.3 Government of India took note of the sentiment of millions of Indians who debated the veracity of the report of the aircrash and his subsequent death. It decided to institute an enquiry to ascertain the truth. In April, 1956, it was headed by Shri Shah Nawaz Khan, a close associate of Netaji, and it comprised Shri Sisir Bose and Shri S.N. Maitra. A majority of this committee, after a full enquiry.

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# FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

concluded that Netaji had indeed died in the plane crash and his mortal remains were kept in Renkoji Temple in Japan. The Government accepted this finding but it was not accepted by some sections of our people.

1.4 Demands were made by a number of Members of Parliament for a fresh enquiry. The Government of India, therefore, decided to set up a Judicial enquiry. In July, 1970, Justice G.D. Khosla was appointed to head this Commission of Inquiry. He completed his enquiry and he also concluded that Netaji had died as a result of the plane crash. The Central Cabinet accepted the finding of this Commission of Inquiry in August, 1974. But once again this finding did not gain universal acceptance such was Netaji's persona and his popular charisma.

### Subsequent developments-Response of India's Prime Minister in 1978:

2.1 Shri Samar Guha, M.P., one of those with whom the report of Netaji's demise did not carry credibility, raised the matter in the Lok Sabha on a number of occasions and demanded another enquiry. On 28th August, 1978, Shri Morarji Desai, the then Prime Minister, responded to this in the Lok Sabha by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and

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### FILE NO.VI/11034/18/98.D(III) GOVERNFMENT OF INDIA MINISTRY OF HOME AFFAIRS

those records. Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope in that the light of this statement. my Hon. friend will withdraw his motion".

#### 2.2 Shri Samar Guha replied as follows:-

"Sir, Today is a great day for the whole Indian people because a mortal sin, a treacherous crime that was committed against the epic hero of Indian freedom has been undone. If I say that Netaji was given burial, out of political conspiracy, it would not be an exaggeration. Although there was not an iota of doubt or any positive proof to the contrary that the plane crash was nothing but fake, and the alleged crash did not involve Netaji at all."

#### 3. Immediate cause of action:

3.1 Much later arose the question of bringing back Netaji's mortal remains from Japan. It was felt that this could be done only if public opinion favoured it. While efforts to build such a favourable public opinion about this were to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed Writ Petition No.281 in the Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. A few other almost identical Writ Petitions were filed in the Supreme Court and the High Courts of Calcutta and Orissa. These touched upon issues like the 'posthumous' grant of the 'Bharat Ratna' to Netaji,

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

whether he was declared a war criminal, under what circumstances his mortal remains can at all be brought back to India, etc.

- 3.2 The Calcutta High Court in its verdict dated 30.4.1998 on the Writ Petition of Shri Bhattacharjee issued directions for "a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry" as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:
  - "a) whether Netaji Subhas Chandra Bose is dead or alive;
  - b) if he is dead whether he died in the plane crash, as alleged;
  - c) whether the ashes in the Japanese Temple are ashes of Netaji;
  - d) whether he has died in any other manner at any other place and, if so, when and how;
  - e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and proscribe, if necessary, all

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

### 4. Resolution of West Bengal Legislative Assembly:

4.1 The West Bengal Legislative Assembly also, on 29.12.1998, adopted a motion demanding;

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

- 4.2 The full text is at Appendix-II.
- 4.3 The State Government has recommended setting up of an enquiry into the mysterious disappearance of Netaji Subhas Chandra Bose. Its letter is at Appendix-III.
- 5. Exploring avenues to meet the developments-meeting of eminent opinion makers:
- 5.1 Government of India took note of the judgement of the Calcutta High Court and the motion passed by the West

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTYRY OF HOME AFFAIRS

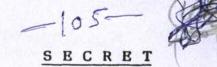
Bengal Legislative Assembly. A meeting of eminent persons was convened by the Union Home Minister on 25.3.1999 to discuss the manner in which action be taken to give effect to the directions of the Calcutta High Court and the motion of the West Bengal Legislative Assembly. The invitees were close associates of Netaji Subhas Chandra Bose as well as some other persons whose views would be crucial intaking a decision in the matter. Those who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sengal invited could not attend, but she sent her views which were circulated to all those who attended the meeting.

5.2 Discussions in the meeting were based on the personal knowledge and experiece of those present, the findings of the Shah Nawaz Khan Committee and the Khosla Commission. It was ultimately felt that in order to take the matter to its logical end and that also once for all, it would be advisable to setup another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding Netaji Subhas Chandra Bose.

#### 6. Proposed action plan:

6.1 It is, therefore, proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are contained in the draft notification which is at Appendix-IV.

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- 6.2 It is also proposed that the Chief Justice of India may be approached to suggest the name of a suitable person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry.
- 6.3 It is further proposed to have a number of posts created viz one post of Chairman; one post of Secretary; one post of Officer on Special Duty and 21 other posts representing the supporting staff in the scales of pay indicated against each post in the statement at Appendix-V with a view to enable the Commission to commence functioning without undue delay. The number of posts projected at Appendix-V, depending upon the functional requirement once the Commission gets going, may go up further. This additional requirement of further posts also needs to be kept in view.

#### 7. Approval sought:

- 7.1 Approval of the Cabinet is therefore solicited to the following:-
  - (i) Appointment of a Commission of Inquiry as proposed in para 6.1 and 6.2 above and;
  - (ii)Creation of initial requirement of supporting staff for the Commission as contained in para 6.3 above.
- 8. A statement of implementation schedule is at Appendix-I.

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### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

- 9. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and are yet to be received. Their views may be ascertained in the meeting.
- 10. Views of Ministry of Finance have been obtained (Appendix-VI). The overall financial implication for the creation of posts as proposed at Appendix-V works out to approximately Rs. 38,80,000 p.a. Specific proposals for creation of posts would be moved on file separately to Ministry of Finance (Department of Expenditure) once the proposal is approved.
- 11. This note has been seen and approved by the Home Minister.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: 21st April, 1999

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FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS

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#### STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

List of the decisions required Projected benefits/results

Time schedule for manner implementation/reporting Cabinet Secretariat.

Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 ( 60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose and creation of posts with regard thereto.

The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.

Steps for appointment of the Commission will be taken immediately on Cabinet approval.

(NIKHIL KUMAR)

Special Secretary (ISP)

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FILE NO. VI/11034/18/98.D(III)
MINISTRY OF HOME AFFAIRS

* * * *

THE WEST BENGAL LEGISLATIVE ASSEMBLY
ON 24,12.98.

This House notes with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereahouts of

Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

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FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS Appendix-111

Government of West Bengal Department of Parliamentary Affairs

No. 654-PA.

Dated 6th April. 1999.

From :

R.P.S. Kahlon, LAS

Joint Secretary.

Parliamentary Affairs Department, Government of West Bengal.

To

Shri A. K. Paitindi, IAS Director, Internal Security, Ministry of Home Affairs, Government of India. Fax No. 011-301 5750.

Sir,

Please recall your telephonic conversation with Principal Secretary, Home and Home Secretary, Government of West Bengal on 5th April, 1999 regarding the setting up of a Commission of Enquiry into the mysterious disappearance of Netaji Sublus Chandra Bose. A resolution regarding this subject was adopted in the West Bengal Legislative Assembly on December 24, 1998.

The State Government recommands setting up of an inquire into the inystorious disappearance of Netasi Subhas Chandra Bose.

Sir (15-1)

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Yours fait sfully,

(R.P.S. Kuhlco)
Joint Secretary.
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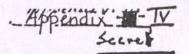
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### FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS





(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(11) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

#### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

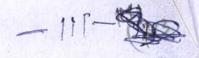
And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952),



#### FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS

* * * *

Secret

the	Central	Government	hereby	appoints	a	Commission	of	Inquiry
cons	isting	of						

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
- The Commission Shoul also examine the manner in thich the exercise of Scrutiny of Publications touching upon the question of death or otherwise of Netapi Combe undertaken by the Got in the Circumstances
- The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No. VI/11034/18/98-IS(D. III)

Spl. SECRETARY

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No.	Designation & Scale of Pay	Date	No.of Post
1.	Chairman (Rs.30,000 fixed)		1
2. :	Secretary(Rs.14,300-18,300)		1
3.	Officer on Special Duty (Rs.12,750-16,500)		1
4.	Court Master (Rs.10,000-15,200)		1
5.	Section Officer (Rs.6,500-10,500)		2
6.	Assistant (Rs.5,500-9000)		2
7. 1	(Rs.5,500-9000)		1
8.	Cashier , (Rs.5,500-9000)		1
9.	Typist (Rs.3,050-4,590)		2
10.	Principal Pvt.Secy. (Rs.10,000-15,200)		1
11.	Private Secretary (Rs.6,500-10,500)		2
12.	Steno Gr'C' (Rs.5,500-9,000)		2
131.	Peon (Rs.2550-3200)		3
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### FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS

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14. Jamadar (Rs.2610-3540) Scenet

15. Safaiwala (Rs.2550-3200)

1

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1 ;

16. Bailiff

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17. Process Server

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### File No. VI/11034/18/98.D(III) Ministry of Home Affairs

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CABINET NOTE ON APPOINTMENT OF A COMMISSION OF

INQUIRY TO ENQUIRE INTO THE ALLEGED DISAPPEARANCE
OF NETAJI SUBHAS CHANDRA BOSE

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S.No. Comments

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- No tenure for the Commission of Inquiry has been prescribed. This is required so as to assess the financial implications.

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The proposal contained in para 6.2 viz. to appoint a person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry is tentative and would depend on the approval of the Cabinet.

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File No. VI/11034/18/98.D(III)
Ministry of Home Affairs

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प्रति सं0 -----

भारत सरकार गृह मंत्रलय

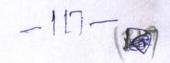
# मीत्रमण्डल के लिए नोट

विषय : नेताजी सुभाष चन्द्र बोस के तथाकथित गायब हो जाने के संबंध में जांच करने के लिए जांच आयोग की नियुक्ति ।

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# । • पृष्ठभूमि ः

- 1.1 भारत के महान सपूत नेताजी सुभाष चन्द्र बीस, जिन्हें गांधी जी ने "देशमक्तों का देशमक्त" कहा, भारत की स्वतंत्रता के लिए अत्यिषक प्रतिबद्ध थे । उनका विश्वास था कि अंग्रेजों को सशस्त्र कार्रवाई से निकालना पड़ेगा और निकाला जा सकता था । उन्होंने आजाद हिन्द सस्कार की स्थापना की और अंग्रेजों के विरुद्ध लड़ाई में इंडियन नेशनल आर्मी १ आई०एन०ए०१ का नेतृत्व किया । सहायता प्राप्त करने और रणनीति बनाने के लिए वह निरंतर मलाया से सिंगापुर और वहां से बर्मा तथा जापान गए तथा इसके लिए जापान की सहायता प्राप्त करने में सफल हो गए । जब वह अपने मिशन पर थे तब 18 अगस्त, 1945 को तायहोकू १ फारमोसा१ से प्रस्थान करने के तत्काल बाद उनका वायुयान दुर्घटनाग्रस्त हो गया।
- 1.2 तब से नेताजी ने अपने देशवासियों में अपनी अमिट छिव बना ली थी तथा उनका प्रभाव ऐसा था और उनके प्रति ऐसी श्रद्धा थी कि दुर्घटना के बाद अस्पताल में उनके निधन की खबर को सर्वत्र माना नहीं गया और वास्तव में इस बारे में अत्यन्त कष्टदायक विवाद बना हुआ है ।
- 1.3 भारत सरकार ने ऐसे करोड़ो भारतीयों की भावनाओं की ओर ध्यान दिया जिन्होंने वायुयान के दुर्घटनाग्रस्त होने और बाद में उनका निधन होने की खबर की सच्चाई के बारे में वाद-विवाद किया । सच्चाई का पता लगाने के लिए भारत सरकार ने जांच कराने का निर्णय लिया। अप्रैल, 1956 में इसकी अध्यक्षता नेताजी के निकट सहयोगी श्री शाहनबाज खां ने की तथा इसमें श्री शिशिर बोस और श्री/एन0 मैत्रा सम्मिलित थे । पूरी जांच के बाद इस समिति ने बहुमत से यह



निष्कर्ष निकाला कि वास्तव में वायुयान दुर्घटना में नेताजी का देहान्त हो गया था और उनके पार्थिव अवशेष जापान में रेनकोजी मंदिर में रखे हुए हैं। सस्कार ने इस निष्कर्ष को स्वीकार कर लिया परन्तु समाज के कुछ वर्गों ने इसे स्वीकार नहीं किया।

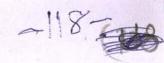
1.4 अनेक संसद सदस्यों ने नई जांच कराने की मांग की । अतः भारत सरकार ने न्यायिक जांच कराने का निर्णय लिया । जुलाई, 1970 में न्यायमूर्ति जी0डी0 खोसला को इस जांच आयोग का अध्यक्ष नियुक्त किया गया । उन्होंने अपनी जांच पूरी की और उन्होंने भी यह निर्णय लिया कि नेताजी का देहान्त वायुयान दुर्घटना में हो गया था । केन्द्रीय मीत्रमंडल ने अगस्त, 1974 में इस जांच आयोग के निर्णय को स्वीकार किया । पस्तु नेताजी का व्यक्तित्व और उनका लोकप्रिय करिश्मा ऐसा था कि इस निर्णय को सर्वत्र स्वीकार नहीं किया गया ।

# बाद की घटनाएं - 1978 में भारत के प्रधानमंत्री की प्रतिक्रियाः

2.1 श्री समर गुहा, संसद सदस्य, जो उन व्यक्तियों में से एक थे जिन्होंने नेताजी के निधन की खबर पर विश्वास नहीं किया, ने यह मामला कई बार लोक सभा में उठाया और दूसरी जांच कराने की मांग की । 28 अगस्त, 1978 को तत्कालीन प्रधानमंत्री श्री मेरारजी देसाई ने लोक सभा में इसका यह कहते हुए उत्तर दिया:

"पहली सिमिति की बहुमत रिपोर्ट और श्री बोसला ने निधन की खबर को सब माला। तब से, इन दोनों रिपोर्ट के निष्कर्षों की सच्चाई के बारे में युक्तियुक्त संदेह व्यक्त किया गया है तथा गवाहों के साक्ष्य में अनेक महत्वपूर्ण विरोधाभास देखे गये हैं । इन संदेहों और विरोधाभासों तथा उन रिकार्डों को ध्यान में रखते हुए सरकार के लिए यह स्वीकार करना कठिन है कि पहले के निष्कर्ष निर्णायक हैं । साथ ही सरकार का मत है कि पुनः कोई जांच कराने से कोई सार्थक प्रयोजन सिद्ध नहीं होगा । मुझे आशा है कि इस बात को देखते हुए मेरे माननीय मित्र अपना प्रस्ताव वापस ले लेंगे ।"

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### 2.2 श्री समर गुहा का उत्तर इस प्रकार था:-

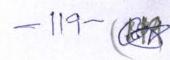
"महोदय, आज का दिन सभी भारत वासियों के लिए महत्वपूर्ण दिन है क्योंकि आज भारतीय स्वाधीनता संग्राम के महाज्ञायक के विरुद्ध जो जधन्य अपराध किया गया धा उससे मुक्ति प्राप्त कर यदि मैं कहूं कि राजनीतिक षडयंत्र के तहत नेताजी को दफना दिया गया था तो कोई अतिश्योक्ति नहीं होगी । हालांकि इस बात में रंचमात्र भी संदेह नहीं है कि हवाई दुर्घटना कभी हुई ही नहीं थी और कथित दुर्घटना में नेताजी किसी भी प्रकार से शामिल ही नहीं थे । इस संबंध में आज तक कोई सबूत नहीं मिला है ।

# कार्रवाई का तात्कालिक कारणः

3.1 नताजी के पार्थिव अवशेष को जापान से वापस लाने का प्रश्न काफी बाद में उठा। उस समय यह महसूस किया गया कि इसे तभी अंजाम दिया जा सकता है जब जनमत इसके पक्ष में हो । जिस समय ऐसा जनमत जुवने के प्रयास प्रारंभ किए जाने वाले थे तभी कलकत्ता के एक सज्जन श्री रुद्र ज्योति भड्दाचार्जी ने 1 अप्रैल, 1998 को कलकत्ता उच्च न्यायालय में एक रिट याचिका संख्या 281 दायर की जिसमें उन्होंने नेताजी के कथित रूप से गायब हो जाने के संबंध में नए सिरे से जांच किए जाने की मांग की । उच्चतम न्यायालय और कलकत्ता तथा उडीसा उच्च न्यायालयों में भी लगभग इसी प्रकार की कुछ रिट याचिकार्ये दायर की गई । इनमें नेताजी को मरणोपरान्त "भारत रत्न" प्रदान करने, उन्हें युद्ध अपराधी घोषित किया गया था अथवा नहीं, उनके पार्थिव अवशेष को किन परिस्थितियों में भारत लाया जा सकता है आदि जैसे मुद्दों को स्पर्श किया गया था।

3.2 कलकता उच्च न्यायालय ने श्री भड्दाचार्जी द्वारा दायर रिट याचिका पर 30.4.1998 को अपना निर्णय सुनाते हुए निर्देश दिया कि इस विवाद का अंत करने के लिए विधि के अनुसार, यिद आवश्यक हो तो जांच आयोग का गठन करके इसकी व्यापक छानबीन की जाए । जिन बिन्दुओं पर जांच का ध्यान केन्द्रित किया जाना है वे इस प्रकार हैं:-

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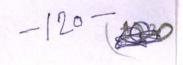


- ∮क
  ∮
   नेताजी सुभाष चन्द्र बोस जीवित हैं या मृत,
- स्व
   यदि उनकी मृत्यु हो चुकी है तो क्या उनकी मृत्यु हवाई दुर्घटना में हुई,
   जैसा कि कहा जाता है,
- ≬ग ३ क्या जापानी मंदिर में रखे अस्थि-अवशेष नेताजी के हैं,
- इच क्या उनकी मृत्यु अन्य किसी स्थान पर अन्य किसी रूप में हुई थी,
   यदि ऐसा है तो कब और कैसे हुई,
- §ड•§ यदि वे जीवित हैं तो उनका पता ठिकाना क्या है ।

प्रतिवादी उक्त प्रयोजन से इस न्यायालय दारा 1997 की रिट याचिका सं0 1805 में दिए गए निदेशों अर्थात भारत के लोगों को विश्वास में लैने का पालन करेगा।

प्रतिवादी उक्त मामले से संबंधित सभी प्रकाशनों की जांच उपयुक्त स्तर पर करके, आवश्यक होने पर ऐसे प्रकाशनों पर प्रतिबंध लगाएगा जो नेताजी की मृत्यु या किसी अन्य पक्ष से संबंधित हो और उनसे लोक व्यवस्था में व्यवधान हो सकता हो और हिंसा भड़क सकती हो ।

प्रतिवादी यदि उन्हें ऐसी सलाह दी जाएगी वो सभी प्रकाशन गृहों को सूचित करेंगे कि वे इस विषय पर कोई प्रकाशन करने से पहले इनकी पूर्व अनुमति लें और ऐसी अनुमति देने से पहले वे उपर्युक्त तरीके से संवीक्षा ्रजांच् करें ।

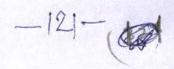


- 4 पश्चिम बंगाल विधान सभा का संकल्पः
- 4·1 पश्चिम बंगाल विधान सभा ने भी 29·12·1998 को एक प्रस्ताव अपनाया जिसमें मांग की गई:

"िक भारत सरकार भारत और उसके बाहर अभिलेखों और दस्तावेजों की उपलब्धता के लिए आवश्यक प्रबंध करे ताकि शिक्षाविद और लोग उन्हें देख सकें तथा यह एक नया जांच आयोग भी बनाया जाए ताकि नेताजी सुभाष चन्द्र बोस के पते ठिकाने से संबंधित रहस्य को दूर किया जा सके ।"

- 4•2 पूरा पाठ परिशिष्ट-।। पर है ।
- 4.3 राज्य सरकार ने नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता हो जाने के बारे में जांच आयोग के गठन की सिफारिश की है । इसका पत्र परिशिष्ट-।।। पर दिया गया है ।
- इटनाक्रम पर कार्रवाई करने के तरीकों का पता लगाना राय बनाने वाले प्रतिष्ठित व्यक्तियो की बैठकः
- 5.1 भारत सरकार ने कलकत्ता उच्च न्यायालय दारा दिए गए फैसले तथा पश्चिम बंगाल विधान सभा दारा पारित प्रस्ताव को नीट किया । केन्द्रीय गृह मंत्री दारा 25.3.1999 को प्रतिष्ठित व्यक्तियों की एक बैठक बुलाई गई जिसमें चर्चा की गई कि कलकत्ता उच्च न्यायालय के निदेशों तथा पश्चिम बंगाल विधान सभा के प्रस्ताव पर किस प्रकार कार्रवाई की जाए । आमंत्रित व्यक्ति नेताजी सुभाष चन्द्र बीस के निकट सहयोगी तथा कुछ अन्य ऐसे व्यक्ति थे जिनके विचार इस मामले में कोई निर्णय लेने में निर्णायक होंगे । भाग लेने वालों में कर्नल जी0एस0 दिल्लों,

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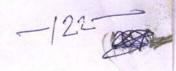


डा० शिशिर कुमार बोस, न्यायमूर्ति १ सेवानिवृत्त १ आर0पस० नस्ता, डा० डी०बी० कलमांकर, श्री सोती सोराबजी, भारत के महान्यायवादी तथा प्रधानमंत्री कार्यालय, विदेश मंत्रालय, रक्षा मंत्रालय, शिक्षा विकास के प्रतिनिधि तथा गृह मंत्रालय के अधिकारी शामिल थे । कर्नल लक्ष्मी सहगल को आमंत्रित किया गया था किन्तु वे भाग नहीं ते सकी किन्तु उन्होंने अपने विचार भेज दिए जिन्हें बैठक में भाग तेने वालों के बीच परिचालित किया गया ।

5.2 बैठक में किया गया विचार-विमर्श उपस्थित व्यक्तियों की व्यक्तिगत जानकारी तथा अनुभव, शाह नवाज खान समिति तथा खोसला आयोग के निष्कर्षों पर आधारित था । अन्ततः यह महसूस किया गया कि इस मामले को एक बार तर्कपूर्ण ढंग से समाप्त करने के लिए नेताजी सुभाष चन्द्र बोस के संबंध में ठोस निष्कर्ष तक पहुँच ने के प्रयोजन से एक बहुत विशेष मामले के रूप में दूसरा जांच आयोग गठित करना उचित होगा ।

### प्रस्तावित कार्य योजनाः

- 6.1 अतः यह प्रस्ताव किया जाता है कि जांच आयोग अधिनियम, 1952 की धारा 3 के तहत एक जांच आयोग नियुक्त किया जाए जो नेताजी सुभाष चन्द्र बोस के कथित लापता हो जाने के बारे में जांच करे । आयोग के विचारार्थ विषय अधिसूचना के मसौदे में दिए गए हैं जो परिशिष्ट-।।/ पर है ।
- 6.2 यह भी प्रस्ताव किया जाता है कि भारत के मुख्य न्यायाधीश से निवेदन किया जाए कि वे जांच करने के लिए भारत के उच्चतम न्यायालय या उच्च न्यायालयों के सेवानिवृत्त न्यायाधीशों में से किसी एक उपयुक्त व्यक्ति के नाम का सुझाव दें।
- 6.3 अध्यक्ष का एक पद; सचिव का एक पद, विशेष कार्य अधिकारी का एक पद और 21 अन्य पदों को निरूपित करने वाले समर्थक पद सृजित किए जाने का भी प्रस्ताव है जिनके वेतनमान परिशिष्ट-।/ पर दिए गए विवरण में प्रत्येक पद के सामने दर्शाए गए हैं ताकि आयोग



अनुचित देरी के बिना अपना कार्य शुरू कर सके । परिशिष्ट- 🗸 पर दिए गए पदों की संख्या, जो कि आयोग के कार्यकलापों के शुरू होने पर उस की आवश्यकता पर निर्भर करती है, आगे बढ सकती है । आगे और पद बनाने की आवश्यकता को भी ध्यान में रखे जाने की जरूरत है ।

- 7• प्रार्थित अनुमोदनः
- 7.1 अतः निम्नलिखित के लिए मंत्रिमंडल का अनुमोदन प्रार्थित है:-
- ≬ंं इं उपरोक्त पैरा 6 1 और 6 2 में यथा प्रस्तावित जांच आयोग की नियुक्ति और,
- §ii§ उत्पर पैरा 6∙3 में यथाविनिर्दिष्ट आयोग के लिए समर्थक स्वफ के प्रारंभिक पदों का सुजन ।
- कार्यान्वयन अनुसूची विवरण परिशिष्ट-I पर है ।
- 9 इस मामले में विधि, न्याय और कंपनी कार्य मंत्रालय के विचार मांगे गए थे और वे अभी प्राप्त होने हैं । बैठक में उनके विचार मालूम किए जाएं ।
- 10 वित्त मंत्रालय के विचार प्राप्त हो गए हैं १परिशिष्ट-1/1 । परिशिष्ट-1/ पर यथा प्रस्तावित पदों के सृजन के बारे में कुल वित्तीय दायित्व लगभग 38,80,000/- रू० प्रतिवर्ष है। एक बार प्रस्ताव का अनुमोदन हो जाने पर पदों के सृजन के बारे में विशिष्ट प्रस्ताव वित्त मंत्रालय १००४ विभाग को अलग से फाइल पर प्रस्तुत किए जाएंगे ।
- 11 इस नोट को गृह मंत्री जी ने देख लिया है और अनुमोदित कर दिया है।

्रीनिस्ति कुमार्§ .

विशेष सचिव, भारत सस्कार

दिनांक 21 अप्रैल, 1999

गुप्त

परिशिष्ट-I

-=: क्र :=-सं0-1/1-11034/18/98-आई0एस0 §डी-111§ भारत सरकार गृह मंत्रालय

# कार्यान्वयन अनुसूची विवरण

विषय : नेताजी सुभाष चन्द्र बोस के कथित लापता होने की जांच करने के लिए जांच आयोग की नियुक्ति ।

अपेक्षित निर्णय का सार संभावित लाभ/परिणाम कार्यान्वयन के तरीके/मंत्रिमंडल सिववालय को सृचित करने के लिए समय-अनुसूची

नेताजी सुभाष चन्द्र बोस के कथित लापता होने इस जांच से नेताजी सुभाष चन्द्र बोस के मंत्रिमण्डल के अनुमोदन पर आयोग की की जांच करने के लिए जांच आयोग अधिनियम, कथित लापता होने का विवाद खत्म हो नियुक्ति के लिए तत्काल कदम उठाए जाएंगे।

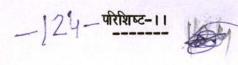
1952 §1952 का 60 § के तहत जांच आयोग जाएगा।

की नियुक्ति और उससे संबंधित पदों के सुजन के लिए मंत्रिमंडल के निर्देश प्रार्थित हैं।

्रानिसल कुमार

विशेष सचिव, भारत सरकार

### गुप्त फा0सं0 1/1/11034/18/98-डी§।।।§ गृह मंत्रालय



पश्चिमी बंगाल विधान सभा दारा दिनांक 24.12.98 को यथा अंगीकृत प्रस्ताव की विषय-वस्तु

यह सदन गंभीर चिन्ता के साथ यह उल्लेख करता है =

कि भारत के लोगों और विदल्जनों को दितीय विश्व युद्ध के दौरान नेताजी सुभाष चन्द्र बोस के रहस्यमय तरीके से गायब हो जाने की बात की अभी तक कोई जानकारी नहीं है.

-यह कि नेताजी सुभाष चन्द्र बोस संबंधी जानकारी के बारे में संसद में भिन्न-भिन्न अवसरों पर भिन्न-भिन्न बयान दिए गए हैं.

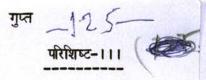
- कि विमान दुर्घटना में नेताजी की कथित मृत्यु के बारे में भारत के उच्चतम न्यायालय और उच्च न्यायालय की न्यायिक उद्घोषणाओं से जनता के मन में और अधिक संदेह पैदा हुआ है,
- कि यूरोप, अमेरिका, सुदूर पूर्व तथा दक्षिण पूर्व पशिया के विभिन्न देशों तथा भारत में भी कथित विमान दुर्घटना के बाद नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से गायब होने के बारे में रखे गये अभिलेखों और दस्तावेजों को भारतीय जनता और यहां के विद्वलजनों को उपलब्ध नहीं कराया गया है।

इस सदन का यह अभिमत है -

कि कथित विमान दुर्घटना में नेताजी सुभाष चन्द्र बोस की मृत्यु की रिपोर्ट को संदेह रहित सिद्ध नहीं किया गया है, और

कि भारत सरकार द्वारा गठित दो जांच आयोगों की रिपोर्टी पर भारत की जनता और विद्रजन विश्वास नहीं करते हैं ।

अतः, यह सदन, राज्य सरकार के माध्यम से मांग करता है कि भारत में या भारत के बाहर अभिलेखों या दस्तावेजों को उपलब्ध कराने के लिए भारत सरकार को आवश्यक प्रबंध करने चाहिए ताकि लोग और बुद्धिजीवी उन्हें देख सकें और नेताजी सुभाष चन्द्र बोस की जानकारी के संबंध में रहस्यों से पर्दा उठाने के लिए एक नया जांच आयोग भी गठित कराया जा सके ।



पश्चिम बंगाल सरकार संसदीय कार्य विभाग

दिनांक 6 औरल, 1999

संध्या 634-पी•ए•

प्रेषक : आर·पी·एस· कहलों, आई·ए·एस·, संयुक्त सचिव, संसदीय कार्य विभाग, पश्चिम बंगाल सरकार ।

#### सेवा में

श्री ए०के० पैटेण्डि, आई॰ए॰एस॰, निदेशक, आन्तरिक सुरक्षा, गृह मंत्रालय, भारत सरकार

फैक्स सं0-011-3015750

महोदय,

कृपया नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता हो जाने के बारे में जांच आयोग गठित करने के संबंध में 5 और , 1999 को प्रधान सचिव, गृह तथा गृह सचिव, पश्चिम बंगाल सरकार के साथ दूरभाष पर हुई अपनी बाताचीत का स्मरण करें । इस विषय पर दिनांक 24 दिसम्बर, 1998 को पश्चिम बंगाल विधान सभा में एक संकल्प पारित किया गया ।

राज्य सरकार नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता होने की जांच कराने की सिफारिश करती है ।

भवदीय,

्रे आर•पी•एस• क इलों संयुक्त सचिव 6.4.99

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परिशिष्ट-। 🕼

गुप्त

≬ भारत के राजपत्र, असाधारण, भाग-।।, खण्ड 3, उपखंड ्रा । र्में दिनांक

को प्रकाशनाच

भारत सरकार

गृह मंत्रालय

नई दिल्ली, दिनांक

का0आ0 यतः 16 अगस्त, 1945 के आसपास नेताजी सुभाष चन्द्र बोस के बैंकाक से प्रस्थान करने, एक विमान दुर्घटना के परिणामस्वरूप उनकी मृत्यु होने तथा उससे जुड़े अनुवर्ती घटनाक्रम से सम्बद्ध स्थितियों की जांच करने तथा भारत सरकार को इसकी रिपोर्ट देने के लिए भारत सरकार द्वारा क्रमशः औरल, 1956 तथा जुलाई, 1970 में गठित शाहनवाज सान समिति तथा सोसला जांच आयोग का निष्कर्ष यह था कि नेताजी सुभाष चन्द्र बोस की मृत्यु एक विमान दुर्घटना में हुई है।

और यतः जनता की यह व्यापक धारणा है कि नेताजी की मृत्यु के बारे में सच्चाई का पता लगाने की समस्या अभी भी बनी हुई है।

और यतः इस मामले में आगे और जांच करने की निरंतर मांग रही है ।

और यतः कलकत्ता उच्च न्यायालय ने भी भारत सरकार को यह निर्देश दिया कि इस विवाद को समाप्त करने के प्रयोजन के लिए विस्तृत जांच कराई जए, यदि आवश्यक हो तो इस प्रयोजन के लिए जांच आयोग का गठन किया जाए ।

और यतः पश्चिम बंगाल विधान सभा में एक संकल्प पारित किया गया जिसमें इस मामले में आगे और जांच की मांग की गई है ।

और यतः केन्द्र सरकार का यह मत है कि सार्वजनिक महत्व के निश्चित मामले की यानि 1945 में नेताजी सुभाष चन्द्र बोस के गायब हो जाने की जांच करने के उद्देश्य से एक जांच आयोग गठित किया जाना आवश्यक है।

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#### गुप्त फा0सं0 1/1/11034/18/98-डी§।।।§ गृह मंत्रालय

अतः, अब जांच आयोग अधिनियम, 1952 §1952 का 60 है की धारा 3 द्वारा प्रदत्त शिक्तयों का प्रयोग करते हुए केन्द्र सरकार प्रतद्दारा एक जांच आयोग गठित करती है, जिसमें -

2. 1945 में नेताजी सुभाष चन्द्र बोस के लापता होने से संबंधित सभी तथ्यों और परिस्थितियों और इससे संबंधित बाद की घटनाओं की यह आयोग जांच करेगा जिसमें निम्नलिखित

ॅंक रें क्या नेताजी सुभाष चन्द्र बोस की मृत्यु हो गई है या जीवित हैं,

शामिल हैं:-

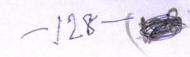
≬ग≬ क्या जापान के मंदिर में जो अस्थियां है, वह नेताजी की अस्थियां है,

्रेड • १ यदि वह जीवित है, तो उनके ठौर-ठिकाने के बारे में बताया जाए ।
अचिथि उस तरीके की भी जांच करेगा जिसमें प्रकाशनों की जांच पड़ताल जिनमें नेताजी की मृत्यु
या अन्यथा के प्रश्न पर प्रकाश डाला गया है, का कार्य सरकार द्वारा इन परिस्थितियों में
किया जा सकता है ।

- अयोग अपनी रिपोर्ट केन्द्रीय सरकार को यथाशीघ्र लेकिन इस अधिसूचना के प्रकाशन की तारीख से 6 माइ के अन्दर प्रस्तुत करेगा ।
- 4• आयोग का मुख्यालय नई दिल्ली में और/अथवा आयोग द्वारा निर्धारित अन्य किसी स्थान पर होगा ।
- 5. केन्द्रीय सरकार की राय है कि मामले की अन्य परिस्थितियों और की जाने वाली जांच के स्वरूप को ध्यान में रखते हुए जांच आयोग अधिनियम, 1952 §1952 का 60 § की धारा 5 की

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गुप्त फा0सं0-1/1-11034/18/98-डी-111§ गृह मंत्रालय



उप धारा §2§, उप धारा §3§, उपधारा §4§, और उप धारा §5§ के सभी उपबंध उक्त आयोग पर लागू किए जाने चाहिए और केन्द्रीय सरकार उक्त धारा 5 की उप धारा §1§ बारा प्रवत्त शिक्तियों का प्रयोग करते हुए फ्लब्बारा यह निर्देश देती है कि उस धारा की उक्त उप धारा §2§ से §5§ के सभी उपबंध आयोग पर लागू होंगे ।

§फा0सं0-1/1-11034/18/98-आई0एस0-डी §।।।§

विशेष सचिव, भारत सरकार

-=: 100 :=-

गप्त

परिशिष्ट-।

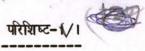
#### गुप्त फा0सं0-1/1-11034/18/98-डी-111 गृह मंत्रालय

# आयोग के लिए आवश्यक अनीतम स्वफ की सूची

क्रम सं	0 पदनाम तथा बैतनमान	तिथि	पद की संख्य
*			
1.	अध्यक्ष		1
2•	सचिव १14,300-18,300/- ₹0१		1
3•	विशेष कार्य अधिकारी §12,750-16,500/-र 0§		1
4 •	कोर्ट मास्टर §10,000-15,200/_₹0§		1
5•	अनुभाग अधिकारी		
	§6,500-10,500/ <del>-</del> ₹0§		2
6•	सहायक		
	<b>§5,500-9,000/∓0§</b>		2
7•	लेखाकार		
	§5,500-9,000/ <del>-</del> ₹0§		1
8 •	कोषपाल		
	§5,500-9,000/ <del>-</del> ₹0§		1
9.	वंशपस्ट ≬3,050-4,590/-₹0}		2
10.	प्रधान निजी सचिव		
	§10,000-15,200/₹0§		1
11.	निजी सचिव		
	§6,500-10,500/ <del>-</del> ▼0§		2
12•	आशुतिपिक ग्रेड "ग"		
	§5,500-9,000/ <del>_</del> ₹0§		2
13•	चपरासी		
	§ 2550-3200/ <del>-</del> ₹0§		3
14.	जमादार		
	§ 2610-3540/-₹0§ सफाईवाला   § 2550-3200/-₹0§		1
15.	बैलिफ		1
16•	_{आदे} शिका तामीलकर्ता		
17.	आदाराज्य राजिसाकरा। §प्रोसेस सर्वर्§		1

-130-

#### गुप्त ऋ0सं0-1/1-11034/18/98- डी§।।।§ गृह मंत्रालय



नेताजी सुभाष चन्द्र बोस के कथित रूप से गायब होने की जांच करने के लिए एक जांच आयोग गठित करने के बारे में मंत्रिमंडल नेाट

वित्त मंत्रालय, व्यय विभाग से प्राप्त टिप्पणियों का विश्लेषण

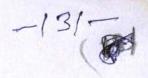
# क्रम सं0 टिप्पणियां

- पहले 1956 में तथा दूसरी बार 1970 में दो जांच की जा चुकी है, जिनमें यह निष्कर्ष निकला कि नेताजी की मृत्यु हो गई थी । इतने वर्ष व्यतीत होने के बाद नई जांच के कोई मिन्न परिणाम निकलना संदेहास्पद है । दूसरे जांच आयोग का गठन परिहार्य प्रतीत होता है ।
- इस जांच आयोग का कोई कार्यकाल निर्धारित नहीं किया गया है। वित्तीय निहितार्थ का आंकलन करने के लिए यह अपेक्षित है।
- अपेक्षित बजदीय सहायता नहीं दर्शायी गई है, इसका आकलन करना अपेक्षितहै।

# गृह मंत्रालय का स्पष्टीकरण

अयोग अधिनियम के अंतर्गत रिट याचिका संख्या 281 पर कलकत्ता उच्चन्यायालय के निर्णय तथा 29.12.98 को पश्चिम बंगाल विधान सभा में पारित प्रस्ताव के अनुपालन में किया जा रहा है जिसकी पश्चिम बंगालसरकार द्वारा सिफारिश की गई है। अधिसूचना के मसौदा ध्रपिरिशष्ट -11/8्रमें आयोग के लिए छह माह का कार्यकाल निर्धारित किया गया है।

परिशिष्ट-।/ पर दिए गए विवरण में उल्लिखित अध्यक्ष एवं अन्य अधिकारियों/कर्मचारियों के वेतन के लिए 38,50000 रूपए प्रतिवर्ष की राशि अपेक्षित होगी। तथापि, आयोग के कार्यकरण को शुरू करने में उसे समर्थ बनाने के लिए यह प्रारंभिक अपेक्षा है, तथा इसमें और वृद्धि हो सकती हैं जो कि वास्तविक अपेक्षा पर निर्मर होगी।



4. जांच आयोग के अध्यक्ष/सदस्यों के रूप में नियुक्त किए गए सेवा निवृत्त न्यायाधीशों के निबंधन एवं शतों के संबंध में व्यय किमाग के दिनांक 8.10.1987 के का. जो ध्यानमें रखते हुए अध्यक्ष का वेतनमान 30,000/-रू० केवल तभी होगा, यदि वह उच्चतम न्यायालय का सेवा निवृत्त न्यायाधीश हो

जांच करने के लिए उच्च न्यायालयों अथवा भारत के उच्चतम न्यायालय के सेवा निवृत्त न्यायाधीशों में से किसी की नियुक्ति करने के लिए पैरा 6 • 2 में किया गया प्रस्ताव अनंतिम है तथायह मंत्रिमंडल के अनुमोदन पर निर्भर करेगा।

उन्हां तक अन्य पदों के सुजन का संबंध है, प्रस्ताव को फाइल पर प्रस्तुत किया जाए जिसमें प्रत्येक पद के सुजन के लिए पूर्ण क्रियात्मक औचित्य दिया जाए तथा इसके समर्थन में उतनी ही बचतें दर्शायी जाएं । प्रत्येक एउ के सृजन के लिए पूर्ण कियात्मक औदित्य का उल्लेख करते हुए इन पदों के सृजन के लिए एक विशिष्ट प्रस्ताव अलग से फाइल पर प्रस्तुत किया जाएगा तथा मंत्रिमंडल दारा सिद्धांत रूप में इसका अनुमोदन किए जाने के बाद इसे वित्त मंत्रालय, व्यय किमाग को भेजा जाएगा



-132-SEGNET

Mo. VI/11034/18/98. 五(页) Ministry of Home Affairs

IS Division (US D. IV)

*Cabinet Note Copy No.47 (both in Hindi & English) A copy of a note* for the Cabinet on the subject matter of appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose is placed below. This was sent to the Cabinet Secretariat vide D.O. letter No. VI/11034/18/98-D(III) dated 21st April, 1999 requesting therein that this may be included in the agenda for consideration by the Cabinet in its next meeting.

 PS to SS(ISP) is requested to place this Cabinet Note before SS(ISP) for his kind perusal.

(V.P. Bhatia)
Under Secretary IS D.IV
Dated 22.04.99

PS to SS(ISP)

- 133- SECRET

No. VI / 11034 / 18 / 98. D.(D)
Ministry of Home Affairs

IS Division (US DIV)

*Cabinet Note Copy No. 46 (both in Windi & English) A copy of a note* for the Cabinet on the subject matter of appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose is placed below. This was sent to the Cabinet Secretariat vide D.O.letter No. VI/11034/18/98-D(III) dated 21st April, 1999 requesting therein that this may be included in the agenda for consideration by the Cabinet in its next meeting.

2. PPS to HS is requested to place this Cabinet Note before HS for his kind perusal.

> ( V.P.BHATIA ) Under Secretary IS.DIV Dated 22.04.99

PPS to HS



No. VI/11034/18/98.D(III)
MINISTRY OF HOME AFFAIRS
IS DIVISION

* * *

New Delhi, the 12 April, 1999.

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

* * *

Copy No.48

(Both in Hindi & English)

Enclosed please find a copy of Note for the Cabinet on the subject noted above which has already been sent to the Cabinet Secretariat vide my D.O. letter of even number dated 21.4.1999 after formal approval of the said Cabinet Note by HM.

A perusal of this Note would indicate that it is proposed to notify appointment of the said Commission (if approved by the Cabinet) for a period of six months and based on the tentative staff requirement (Appendix-V attached to this Note), in para 10 of the Cabinet Note, financial implication has been shown as approximately Rs. 38,80,000 per annum on account of salary for the Chairman and other officers/staff mentioned in the statement at Appendix-V. Ministry of Finance in their comments which have been analysed as Appendix-VI to this Cabinet Note inter alia stated that budgetary support required has not been indicated and is required to be brought out and that for creation of other posts, the proposal should be referred on file bringing out full functional justification for creation of each post duly supported by matching savings. It may be stated that on account of urgency in the matter, the subject matter could not be routed through Integrated Finance/FA(Home). It is, accordingly, requested that the proposal contained in the Cabinet Note with particular reference to paras 6.3 and 10 thereof may kindly be perused and necessary follow-up action initiated for making available the budgetary provision for salary, T.A., D.A. and other normal requirements of the functioning of Commissions appointed under the Commissions of Inquiry Act, 1952,

MANAGORA CLAY TO HAT A THE

75560 P. POWN NO 6

( SANGITA GAIROLA ) JOINT SECRETARY (IS-I)

Largeta Gairola

FA (HOME)

संयुक्त सचिव

JOINT SECRETARY

SANGITA GAIROLA Tel. No. 301 5736

GOVERNMENT OF INDIA गृह मंत्रालय MINISTRY OF HOME AFFAIRS

North Block, New Delhi-110 001,

April 26, 1999

Dear Sir

Kindly refer to my D.O. letter of even number dated 21st April, 1999 sending therewith 45 copies of the Cabinet Note on a proposal to appoint a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Since the proposal contained in the Cabinet Note was as a result of a verdict dated 30th April, 1998 of the Calcutta High Court on Writ Petition No.281 filed in the said High Court, I shall be grateful if the decision of the Cabinet on the proposal is communicated to this Ministry expeditiously.

With regards,

Yours sincerely,

sangita Gairola

Shri Pawan Chopra, Addl. Secretary, Cabinet Secretariat, Rashtrapati Bhavan, New Delhi.

No.24/CM/99(i) GOVERNMENT OF INDIA (BHARAT SARKAR) CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA) New Delhi, the 1st May, 1999. The undersigned is directed to circulate herewith the of the meeting of the Cabinet held on the 28th April, 1999. (Case Nos. 160/24/99 to Case Nos. 168/24/99). & Milliany (S. Sasi Kumar) Under Secretary to the Cabinet. Tele: 3015344 Principal Secretary to the Prime Minister. Secretary to the Prime Minister. Copy, with a copy of the relevant minutes, forwarded to the following in respect of the case(s) mentioned against each:-Secretary, Ministry of Food Processing (Case No.160 Industries. Foreign Secretary. Secretary, Department of Agriculture (Case Nos. 160 and Cooperation. ( and 161 Secretary, Ministry of Textiles. (Case No. 161 Secretary, Planning Commission. (Case Nos. 161, ( 163 and 164 Finance Secretary. (Case Nos. 161 ( and 164 Secretary, Department of Expenditure. (Case Nos. 161, 162 ( 164,165 and 167 Secretary, Ministry of Home Affairs. (Case Nos. 162, 163 ( 166 and 167 Secretary, Department of Legal Affairs. (Case Nos. 163 (166 and 167 Secretary, Ministry of Programme (Case No.164 Implementation. Secretary, Ministry of Power. Railway Board. (Case No.165 Chairman, Secretary, Ministry of Personnel, Public Grievances and Pensions. Secretary, Ministry of Social Justice (Case No. 166 and Empowerment. Secretary, Ministry of Urban Development ( (S. Sasi Kumar) Under Secretary to the Cabinet.

*ANV* 30 Copies.

SECRET



CRET COPY NO.

No.24/CM/99

#### CABINET SECRETARIAT

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET HELD AT 1130 HOURS, ON WEDNESDAY, THE 28TH APRIL, 1999, IN THE CONFERENCE ROOM (NO.155), SOUTH BLOCK, NEW DELHI.

Case No.162/24/99

Item 3

Closure of the Scheme relating to the Border Camp Cases in the erstwhile Hyderabad State (1947-48) for grant of Pension under the Swatantrata Sainik Samman Pension (SSSPS) Scheme, 1980.

Withdrawn.

SECRET

*GSH* copies.



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#### SECRET

No.24/CM/99

#### CABINET SECRETARIAT

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET HELD AT 1130 HOURS, ON WEDNESDAY, THE 28TH APRIL, 1999, IN THE CONFERENCE ROOM (NO.155), SOUTH BLOCK, NEW DELHI.

Case No.163/24/99

Item 4

Extension of the term of the existing development boards in Maharashtra.

The Cabinet considered the note dated 15.4.99 from the Ministry of Home Affairs (Grih Mantralaya) and decided to recommend to the President to extend the term of the three existing development boards in Maharashtra by a period of five years i.e. from 1.5.1999 to 30.4.2004.

#### SECRET

*GSH*
4 copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the Council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.



-139-COPY NO. 3

No.24/CM/99

#### CABINET SECRETARIAT

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET HELD AT 1130 HOURS, ON WEDNESDAY, THE 28TH APRIL, 1999, IN THE CONFERENCE ROOM (NO.155), SOUTH BLOCK, NEW DELHI.

Case No.166/24/99

Item 7

Kasturba Niketan Complex, Lajpat Nagar, New Delhi - Plan for Resettlement of Refugees and Development of the Campus.

The Cabinet considered the note dated 8.4.99 from the Ministry of Social Justice and Empowerment (Samajik Nyaya aur Adhikarita Mantralaya) and approved the proposals contained in paragraph 13 thereof.

SECRET

*GSH*

Copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the Council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.



No.24/CM/99

#### CABINET SECRETARIAT

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET HELD AT 1130 HOURS, ON WEDNESDAY, THE 28TH APRIL, 1999, IN THE CONFERENCE ROOM (NO.155), SOUTH BLOCK, NEW DELHI.

OTHER ITEM

Case No.167/24/99

Item 8

Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhash Chandra Bose.

The Cabinet considered the note dated 21.4.99 from the Ministry of Home Affairs (Grih Mantralaya), circulated in the meeting, and approved the proposals contained in paragraph 7.1 thereof, with the modification that the creation of the posts of the supporting staff below joint secretary level for the Commission may be separately processed in consultation with the Department of Expenditure.

SECRET

*GSH* 4 copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the Council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.

#### LEGISLATIVE DEPARTMENT

The draft Note for the Cabinet forwarded by Ministry of Home Affairs solicits the the directions of the Cabinet for the appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhash Chandra Bose under section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952). It is also proposed to apply sub-sections (2), (3), (4) and (5) of section 5 of the said Act to the Commission so as to give additional powers to the Commission under the said Act.

- The draft notification enclosed as Appendix III has been modified in this Department and the same as amended in pen/pencil is formally in order.
- The Department of Legal Affairs have seen and concurred in the Note.
- We may also concur.

denjey singh 7-4-99 (Dr. Sanjay Singh) Deputy Legislative Counsel 07-04-1999

Adrice A See ( 100 CA) Sh. B.A. Agoupol Jos HA

Shri Nikhil tumar, Special Secretary MHA

তিবি কাৰ্ড বিপাণ

Deptt. of Logal Affairs

13(11)199-

1187/99

No. 1187/99-(A)

Pl prepare a fair notification now.



## Ministry of Law, Justice & Co. Affairs Department of Legal Affairs

-142-

1187/99(A) 5.4.1999

Ministry of Home Affairs have forwarded their draft Note for the Cabinet proposing appointment of a fresh Commission of Inquiry under section 3 of the Commissions of Inquiry Act, 1952 to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. The Commission will consist of a retired Judge of High Court or Supreme Court.

- It may be recalled that the Shah Nawaz Khan Committee (appointed in 1956) and the Khosla Commission of Inquiry (appointed in 1970) gave their finding that the report of the death of Netaji in the aircrash at Taihoku (Japan) on 18.08.1945 was true. Though the then Cabinet accepted the said finding in 1974, in 1978, the then Prime Minister, Shri Morarji Desai stated in Lok Sabha that it was difficult to accept that the said conclusion was decisive, in view of doubts amongst some sections of our people and contradictions in the testimony of witnesses. Later arose the question of bringing to India Netaji's mortal remains kept in Renkoji Temple, Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee filed a Writ Petition (No.281/1998) in Calcutta High Court demanding a fresh inquiry into the alleged disappearance of Netaji. A Division Bench of Calcutta High Court directed the Government to launch a vigorous inquiry in accordance with law by appointing if inquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to the controversy whether Netaji was dead or alive. The High Court gave certain other directions as well, vide para 3 of the draft Note.
- The West Bengal Legislative Assembly adopted a Motion on 29.12.1998 demanding:-

""that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh inquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

4. In the meeting taken by the Union Home Minister on 25.03.1999, attended by some eminent persons, including the Attorney General for India,

Contd...2/-

it was felt that it would be advisable to set up another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

5. We do not see any constitutional/legal bar to appointing a fresh Commission of Inquiry, as proposed. Draft Notification, vide Appendix-III, may be seen by the Legislative Department for vetting.

> BA. Af Cawal (Brahm Avtar Agrawal) Joint Secretary & Legal Adviser 05.04.1999

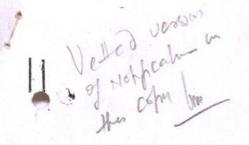
No. 1187/99-(A)

Law Secretary

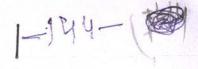
Secretary, Legislative Department

िवि कार्य कियान Diptt. of Land Affairs Dy. No. 1187 Advice 'A' Section 6/4/99

Dy No.1248-6 Date 8.6. [14.]99







SECRET COPY NO.

#### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ***

#### NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

#### Background:

Netaji's reported death in an aircrash at Taihoku 1. (Formosa) on 18th August, 1945 has continued to be a topic, of National debate. As the news of his death was not found stat to be credible, Government of India had instituted an enquiry in April, 1956 to ascertain the truth. Shri Shah Nawaz Khan headed a Committee that conducted this enquiry and held that Netaji had indeed died and his mortal remains were kept in Renkoji Temple, Tokyo. This was, however, not sections of our people though the accepted by some Government accepted the report. Following a demand for fresh enquiry by a number of members of Parliament, the Government of India once again instituted a judicial enquiry in July, 1970 under Mr. Justice G.D. Khosla. His finding was similar. But that too did not find universal acceptance though once again the Central Cabinet accepted the finding in August, 1974.

#### Subsequent developments-Response of India's Prime Minister in 1978:

Subsequently, Shri Samar Guha, M.P., raised this matter in the Lok Sabha on a few occasions demanding another enquiry. In 1978, Shri Morarji Desai, then Prime Minister, responded to this by stating that:

> "the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

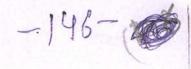
correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further I hope that in the light of this statement, my Hon. friend will withdraw motion".

#### Immediate cause of action:

Much later arose the question of bringing back Netaji's mortal remains from Tokyo. While efforts to build a favourable public opinion about this had to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed a Writ Petition No.281 in Calcutta High Court in April, fresh demanding a enqui ry into Netaji's alleged disappearance. A few other almost identical Writ Petitions touching upon issues like 'Posthumous' grant of 'Bharat Ratna' to Netaji, whether he was declared, criminal, under what circumstances his mortal remains can at at all be brought back to India etc. have also received attention of Hon'ble Supreme Court, and the High Courts of Calcutta and Orissa. The Calcutta High Court has responded to the mentioned Writ Petition of Shri Bhattacharjee by issuing directions for a vigorous enquiry in accordance with law by appointing, if necessary, a Commission of Inquiry as a special case for the purpose of giving an end to this controversy. The points on which the focus of the enquiry is to be directed are as follows:

Contd..3/-

[&]quot;a) whether Netaji Subhas Chandra Bose is dead or alive;



# :

#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

- b) if he is dead whether he died in the plane crash, as alleged;
- c) whether the ashes in the Japanese Temple are ashes of Netaji;
- d) whether he has died in any other manner at any other place and, if so, when and how;
- e) if he is alive, in respect of his whereabouts.

The respondents shall follow for the said purpose the directions of this Court given in W.P. No.1805 of 1997 namely, to take the people of India in confidence.

Respondents shall at appropriate level examine/ scrutinise all publications pertaining to the matter as above and prescribe, if necessary, all such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

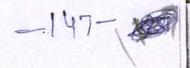
#### Resolution of West Bengal Legislative Assembly:

4. The West Bengal Legislative Assembly also, on 29.12.98, adopted a motion demanding:

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#### File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

# Exploring avenues to meet the developments-meeting of eminent opinion makers:

5. In order to discuss the manner in which action is to be initiated in compliance of the judgement of the Hon'ble Calcutta High Court as well as the motion passed by the West Bengal Assembly, a meeting of eminent persons was convened by the Union Home Minister on 25.3.99. The invitees included close associates of Netaji Subhas Chandra Bose as well as other persons whose views were crucial for taking a decision in the matter. Some of the persons who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry of Defence, Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal could not attend, but sent her views which were circulated to all While the deliberations in the meeting centred around what has come out so far in historical perspective and the findings of both Shah Nawaz Khan Committee and the Khosla Commission's reports, in the ultimate analysis it was felt that in order to take the matter to its logical end and that also once for all, it would be adviseable to setup another Commission of Inquiry as a very special case for the

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# File No.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

purpose of arriving at a definite conclusion regarding the disappearance of Netaji Subhas Chandra Bose.

#### Proposed action plan:

6. Accordingly, it is proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are at Annexure-II. It is further proposed that retired Judges of High Courts or Supreme Court may nominated to conduct the enquiry.

#### Cabinet Decision solicited:

- Directions o f the Cabinet are solicited for appointment of a Commission of Inquiry as proposed in para 6 above. The draft notification is at Appendix-III.
- 8. A tentative requirement of supporting staff for the Commission is at Appendix-IV. Creation of these posts may also be approved.
- 9. A statement of implementation schedule is at Appendix-I.
- 10. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and they have agreed to the conduct of enquiry in this regard. Views of Ministry of Finance may be obtained in the meeting.
- 11. The Home Minister has seen and approved the Note.

(NIKHIL KUMAR) Special Secretary(ISP)

Date: 31st March, 1999

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APPENDIX-T

NO.VI/11034/18/98-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
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#### STATEMENT OF IMPLEMENTATION SCHEDULE

Subject:- Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Gist of the decision required	Projected benefits/results	Time schedule for manner of implementation/reporting to Cabinet Secretariat.
Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.	The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.	Steps for appointment of the Commission will be taken immediately on Cabinet approval.

200 Appendix II

# CONTENTS OF THE MOTION AS ADOPTED BY THE WEST BENGAL LEGISLATIVE ASSEMBLY ON 24,12.98.

This House notes with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereabouts of

Netaji Subhas Chandra Bose:

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash;

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains;

And, whereas there has been a consistent demand for a further inquiry into the matter;

And, whereas the Calcutta High Court also directed to Government of India to launch al vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy;

Motion was adopted on 24.12.98 by the Legislative And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netagi Subhas Chandra Bose;

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely, the disappearance of Netaji Subash Chandra Bose in 1945;

Now, therefore, in exercise of powers conferred by Section 3 of the Commissions of Inquiry Act, 1952(60 of 1952),

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the Central Government hereby appoints a Commission of Inquiry consisting of '

The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-

- (a) whether Netaji Subash Chandra Bose is dead or alive;
- (b) if he is dead, whether he died in the plane crash,
- (c) whether the ashes in the Japanese temple are ashes of Netaji;
- (d) whether he has died in any other manner at any other place and, if so, when and how;

(e) if he is alive, in respect of his whereabouts :. 3. The Commission Shall also expanine the manner in which therexercise of Sern Finy of faulications touching upon the greation of death or otherwise of Wester Combe undertaken by the Good in the Great streamstances. The Commission shall submit its report to the Central

Government as soon as possible but not later than 6 months from the date of publication of this Notification.

4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.

6. The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section\$(2) to (5) of that section shall apply to the Commission.

SAL SECRETARY

(File No.VI/11034/18/98-IS(D.III)



# List of the tentative staff require for the Commission

No.	Designation & Scale of Pay	Date	No.of Pos	t
1.	Chairman (Rs.30,000 fixed)		1	
2. ;	Secretary(Rs.14,300-18,300)		1	
3.	Officer on Special Duty (Rs.12,750-16,500)		1	
4.	Court Master (Rs.10,000-15,200)		1	
5.	Section Officer (Rs.6,500-10,500)		2	
6.	Assistant (Rs.5,500-9000)		2	
7. :	(Rs.5,500-9000)		1	1
8.	Cashier (Rs.5,500-9000)		1	
9.	Typist (Rs.3,050-4,590)		2	
10.	Principal Pvt.Secy. (Rs.10,000-15,200)	•	1	
11.	Private Secretary (Rs.6,500-10,500)		2	
12.	Steno Gr'C' (Rs.5,500-9,000)		2	
13.	Peon (Rs.2550-3200)		3	

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14.	Jamadar
	(Rs.2610-3540)

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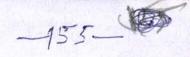
15. Safaiwala 1 (Rs.2550-3200)

1 16. Bailiff

1 Process Server 17.

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S E C R E T MOST IMMEDIATE

## Government of India Ministry of Home Affairs IS-I Division ****

Enclosed please find copy of a Draft Note for the Cabinet on the subject of appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. Appendix-III of the Draft Cabinet Note contains the terms of reference of the proposed Commission of Inquiry. Law Ministry is requested to see the Draft Cabinet Note with special reference to Appendix-III for the purpose of vetting.

This may kindly be treated as urgent.

Sangita Gairola
(SANGITA GAIROLA)

Joint Secretary(IS-I)

Shri B.A. Aggarwal, Joint Secretary & Legal Advisor, Ministry of Law, Department of Legal Affairs, Shastri Bhawan, N.Delhi-MHA UO No.VI/11034/18/98-D(III) Dated 1st April, 1999.

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### MOST IMMEDIATE BY HAND

## No. VI/11034/18/98-IS(D.III) MINISTRY OF HOME AFFAIRS IS(D.II) DESKI ***

New Delh, the 14th May, 1989.

Subject: Appointment of Commission of Inquiry on Netaji Subhas Chandra Bose.

As you may be aware the Government has decided to appoint a Commission of Inquiry u/s 3 of the Commissions of Inquiry Act, 1952 to inquire into the alleged disappearance of Netaji Subhas Chandra Bose. For this purpose we are required to issue a notification to be published in the Gazettee of India Extraordinary.

- 2, English version of the notification has already been vetted by the Ministry of Law, Justice and Company Affairs. A copy of vetted notification is enclosed for ready reference.
- 3. Hindi translation of the draft notification (prior to vetting) has already been done in the Official Language Wing of this Ministry (copy enclosed for reference and possible use). However this notification being statutory notification, Hindi version thereof is also required to be vetted by the Official Language Wing of the Ministry of Law, Justice and Company Affairs. It is therefore requested that the Hindi version of the draft notification duly vetted may kindly be provided to this Ministry.
- 4. Since this notification is required to be issued in the Gazettee of Extraordinary today itself. It would be appreciated if the Hindi version duly vetted is provided to this Ministry per bearer.

(V.P. BHATIA)
UNDER SECRETARY

To,

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Shri S.P. Pandey, Superintendent (Translation-I), Official Language Wing, Indian Law Institute Building, Bhagwandas Road, New Delhi-110001. Shed benjoy distriction



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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(11) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

## GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS Netification New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash;

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains;

And, whereas there has been a consistent demand for a further inquiry into the matter;

And, whereas the Calcutta High Court also directed for Government of India to launch Jivigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy;

Legislative And, whereas a resolution has been passed in West

Bengal Assembly wherein a demand has been made for a Euchen file
inquiry into the matter to remove the mystery regarding the where to
of Netage Subhas Chandra Bose;

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945;

Now, therefore, in exercise of powers conferred by Section 3 of the Commissions of Inquiry Act, 1952(60 of 1952),

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the Central Government hereby appoints a Commission of Inquiry consisting of '

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts:

  3. The Commission Shall also examine the manner in which the exercise of Sern Fry of fallications touching upon the question of death or otherwise of Neta Course undertaken by the Gott in the birecurstances.

  3. The Commission shall submit its report to the Central
  - The Commission shall submit its report to the Central Government as soon as possible but not later than months from the date of publication of this Notification.
- Delhi, and/or any other place determined by the Commission.
  - regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section(2) to (5) of that section shall apply to the Commission.

(File No.VI/11034/18/98-IS(D.III)

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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

#### NOTIFICATION

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash;

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains;

And, whereas there has been a consistent demand for a further inquiry into the matter;

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy;

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netagn Subhas Chandra Bose;

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making/inquiry into a definite matter of a public importance, namely, the disappearance of Netaji Subhas/ Chandra Bose in 1945;

Now, therefore, in exercise of powers conferred by

sub-sections (1) and (2) of

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Section 3 of the Commissions of Inquiry Act, 1952(60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of Mr. Juptice M.K. Mukherjee, a retired Judge of the Subreme Court of India

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subhas Chandra Bose is dead or alive;
  - (b) if he is dead, whether he died in the plane crash, as alleged;
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
  - (e) if he is alive, in respect of his whereabouts.
- The Commission shall also examine the manner in which the exercise of Scrutiny of Publications touching upon the question of death or otherwise of Netaji can be undertaken by the Government in the circumstances.
- Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- Delhi, and/or any other place/determined by the Commission.
- regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government in exercise of the powers conferred by



-161-

sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-sections (2) to (5) of that section shall apply to the Commission.

(F.NO. VI/11034/18/98-IS(D.III)

(NIKHIL KUMAR) SPECIAL SECRETARY(ISP) भारत सरकार



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विधि, न्याय और कंपनी कार्य मंत्रालय (विधायी विभाग) राजभाषा खंड

> भारतीय विधि संस्थान भवन, भगवानदास रोड, नई दिल्ली ।

अधिसूचना/आदेश/शुद्धिपत्र/नियम/विनियम का हिन्दी पाठ

अनुवाद के लिए सामग्री भेजते समय कृपया निम्नलिखित बातों पर अवश्य ध्यान दें :-

1. अपना टेलीफोन नम्बर अवश्य लिखें ।

 तत्काल प्रकृति की फाइलें 12 बजे अपराहन (2-00) से पूर्व भेजें व सुसंगत कागजात सदैव प्रतोक्ति करके भेजें ।

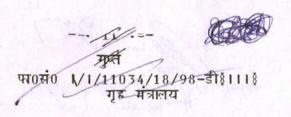
- उ. अनुवादार्थ भेजी गई सामग्री के अंग्रेजी पाठ की विधि, न्याय और कंपनी कार्य मंत्रालय के विधायी विभाग से सम्यक रूप से विधीक्षा करवा लेने के पश्चात् उक्त अंग्रेजी पाठ की एक अतिरिक्त स्वच्छ टंकित प्रति यथाविधीक्षित अंग्रेजी पाठ और तत्संबंधी की गई नोटिंग आदि की फोटो कॉपी की एक प्रति के साथ ही भेजें।
- 4. उस मूल अधिसूचना/आदेश/नियम/विनियम की, जिसका संशोधन किया जा रहा है और उनमें किए गए पश्चातवर्ती संशोधनों की, यदि कोई हो, अंग्रेजी और हिन्दी प्रति संदर्भ हेतु अवश्य भेजें।
- 5. यदि संशोधनकारी अधिसूचना/आदेश/नियम/विनियम आदि तकनीकी/वैज्ञानिक प्रकृति के हैं तो कृपया उनका अनुवाद अपने स्तर पर कराकर उपलब्ध कराएं।

(श्यामा प्रसाद पाण्डेय)

अधीक्षक

टेलीफोन नं0 : 3388231

विधि, न्याय और कंपनी कार्य मंत्रालय, राजभाषा खंड डा७ सं७ ४/१ (१९ अनु७-1) तारीख । ४ - ऽ - 1998





रीएम अपन

भारत के राजपत्र, असाधारण, भाग-।।, खण्ड 3, उपसंड ।। । में दिनांक 14.5.99को प्रकाशनार्ध

भारत सरकार

गृह मंत्रालय

उतिगयना

नई दिल्ली, दिनांक 14.5. 1988

का0आ0 पतिः 16 अगस्त, 1945 के आसपास नेताजी सुभाष चन्द्र बोस के बैंकाक से प्रस्थान करने एक विमान दुर्घटना के परिणामस्वरूप उनकी मृत्यु कोने तथा उससे जुड़े अनुवर्ती घटनाक्रम से सम्बद्ध स्थितियों की जांच करने तथा भारत सरकार को इसकी रिपोर्ट देने के लिए भारत सरकार दारा कमशः औरल, 1956 तथा जुलाई, 1970 में गठित शाहनवाज़ सान समिति तथा सोसला जांच आयोग का निष्कर्ष यह था कि नेताजी सुभाष चन्द्र बोस की मृत्यु एक विमान दुर्घटना में हुई है।

और यतः जनता की यह व्यापक धारणा है कि नेताजी की मृत्यु के बारे में सच्चाई का भूदा अञ्चलत् पता लगाने की समस्या अभी भी <del>बनी हुई</del> है ।

और ध्रितः इस मामले में आगे और जांच करने की निरंतर मांग रही है ।

और पति कलकता उच्च न्यायालय ने भी भारत सरकार को यह निर्देश दिया कि विचित्र अध्यार इस विवाद को समाप्त करने के प्रयोजन के लिए विस्तृत जांच क्रिकराई जार, यदि आवश्यक हो तो इस प्रयोजन के लिए जांच आयोग का गठन किया जाए ।

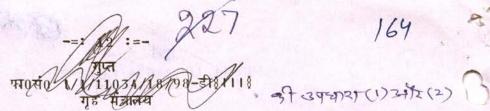
और सकः पश्चिम बंगाल विधान सभा अं/एक संकल्प पारित किया गया जिसमें/इस मामले हू

में आगे और जांच की मांग की गई है।

THE WINE WENT CHIEF

और स्तः केन्द्रीय सरकार का यह मत है कि सार्वजनिक महत्व के निश्चित मामली कि अव्यक्ति ज्ञान प्राप्ती कि अव्यक्ति प्राप्त करने के उद्भुवेश्य से एक जांच आयोग गठित किया जाना आवश्यक है।





अतः, अव ्जांच आयोग अधिनियम, 1952 १1952 का 60१ की धारा उर्दाता प्रदत्त शिक्तयों का प्रयोग करते हुए के-द्रीय सरकार, स्तब्का एक जांच आयोग गठित करती है, जिसमें किना लिया क्याच्याती में भाषाकें उत्तातम द्यायालया के

पाड द गालाट का मण

आमिल हैं।

∱1945 में नेताजी सुभाष चन्द्र बोस के लापता होने से संबंधित सभी तथ्यों और परिस्थितियों और इससे संबंधित <del>बाद की</del> घटनाओं की ख़ह (आयोग) गांच करेगा जिसमें निम्नलिखित और - पश्चात्वती शामिल हैं :-

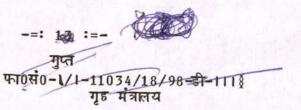
 क्या नेताजी सुभाष चन्द्र बोस की मृत्यु हो गई है या देजीवित हैं, १स विद्या विमान दुर्घटना में उनकी मृत्यु हो गई है क्या विमान दुर्घटना में उनकी मृत्यु हुई है जैसा अधिकियत कि आसेप लगाया गया है.

क्या जापान के मंदिर में जो अस्थियां है, वह नेताजी की अस्थियां है, क्या उनुकी मृत्यु किसी अन्य ढ्रेंग से किसी अन्य स्थान पर हुई है

और यदि हा, तो कब और कैसे हुई, सब पे जानारी

§ड • § यदि वह जीवित है, तो उनके ठौर-ठिकाने के <del>वारे में बताया जा</del>ए ।

- 3. अग्रियो उस तरीके की भी जांच करेगा जिसमें/प्रकाशनों की जांच पड़ताल जिनमें नेताजी की मृत्यु पा अन्यथा/के प्रश्न पर प्रकाश डाला गया है, का कार्य सरकार दारा इन परिस्थितियों में किया जा सकता है।
  - आयोग, अपनी रिपोर्ट केन्द्रीय सरकार को, यथाशीघ्र, मैकिन् इस अधिसूचना के प्रकाशन की तारीख से धुरमास के अन्दर प्रस्तुत करेगा ।
  - र्ग्या आयोग का मुख्यालय नई दिल्ली में और/अथवा /आयोग का अवधारित अन्य किसी स्थान पर हो गी पर होगा करे।
  - केन्द्रीय सरकार की राय है कि मामले की अन्य परिस्थितियों और की जाने वाली जांच के स्वरूप को ध्यान में रखते हुए जांच आयोग अधिनियम, 1952 १1952 का 60१ की धारा 5 की



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उप धारा १२१, उप धारा १३१, उपधारा १४१, और उप धारा १५१ के सभी उपबंध उक्त आयोग को प्रस् लागू किए जाने चाहिए और केन्द्रीय सरकार उक्त धारा ५ की उप धारा १।१ दारा प्रदत्त शिक्तयों का प्रयोग करते हुए प्रतृक्द्वरा यह निदेश देती है कि उस धारा की उक्त उप धारा १२१ से १५१/ के सभी उपबंध आयोग कर लागू होंगे ।

§फा0सं0-V1-11034/18/98-आई0एस0-डी §।।।§

विशेष सचिव, भारत सरकार





्री कि गृह मंत्रालय भारत सरकार

नार्थ ब्लाक, नई दिल्ली-110001 MINISTRY OF HOME AFFAIRS GOVERNMENT OF INDIA NORTH BLOCK, NEW DELHI-110001

F.No. VI/11034/18/98-IS(D.III)

To

The Manager, Govt. of India Press, mayapuri, Ring Road, New Delhi.

Dated:14.5.99

Subject: Appointment of a Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Sir,

Enclosed please find a copy of a notification(both in Hindi and English) to be published in Part II, Section 3, Sub Section(ii) of the Gazette of India, Extraordinary dated (14.5.99.) It is requestedd that this notification may be published in today's date and 50 copies thereof provided to this Ministry expeditiously for necessary follow up action with all the concerned authorities.

It is further requested that S.O.No. allotted to this notification may be sent per bearer of this letter.

Yours faithfully,

(V.P. BHATIA)
UNDER SECRETARY

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(THE PUBLISHED IN PART II, SECTION 3, SUB SECTION(ii) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED 14.5.1999)

### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

#### NOTIFICATION

New Delhi, the 14.5.99

S.O. 339...(E) - Whereas the Shah Nawaz Khan Committee and the Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash;

And, whereas there is a wide spread feeling among the public that the issue of finding the truth about Netaji's death still remains;

And, whereas there has been a consistent demand for a further inquiry into the matter;

And, whereas the Calcutta High Court also directed the Government of India for a vigorous inquiry in accordance with Law, if necessary, by appointing a Commission of Inquiry for the purpose of giving an end to this controversy;

And, whereas a Motion was adopted on 24.12.1998 by the West Bengal Legislative Assembly wherein a demand has been made for a fresh inquiry into the matter to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose;

And whereas the Central Government is of the opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an indepth inquiry into a definite matter of a public importance, namely, the disappearance of Netaji Subhas Chandra Bose in 1945;

Now, therefore, in exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Commissions of Inquiry Act, 1952(60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of Mr. Justice M.K. Mukherjee, a retired Judge of the Supreme Court of India.

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments connected therewith including:-
  - (a) whether Netaji Subhas Chandra Bose is dead or
  - (b) if he is dead, whether he died in the plane crash,

as alleged;

(c) whether the ashes in the Japanese temple are ashes of Netaji;

(d) whether he has died in any other manner at any other place and, if so, when and how;

(e) if he is alive, in respect of his whereabouts.

The Commission shall also examine the manner in which the exercise of Scrutiny of Publications touching upon the question of death or otherwise of Netaji can be undertaken by the Central Government in the circumstances.

- 4. The Commission shall submit its report to the Central Government as soon as possible but not later than six months from the date of publication of this notification.
- 5. The headquarters of the Commission shall be at New Delhi, and/or any other place as determined by the Commission.
- 6. The Central Government is of the opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government in exercise of the powers conferred by subsection(1) of the said section 5, hereby directs that all the provisions of the said sub-sections (2) to (5) of that section shall apply to the Commission.

(NIKHIL KUMAR)
SPECIAL SECRETARY(#SF)

(F.No. VI/11034/18/98-IS(D.III)





§मारत के राजपत्र, असाधारण, भाग-।।, खंड-3, उपखंड §іі ў में तारीख 14.5.1999 की प्रकाशनार्ध ह

भारत सरकार गृ<u>ह मंत्रालय</u>

अधिसूचना

नई दिल्ली, तारीख 14.5.1999

का0 आ0 339 (भ)-नेताजी सुभाष चन्द्र बोस के 16 अगस्त, 1945 के आसपास बैंकाक से प्रस्थान करने और एक विमान दुर्घटना के परिणामस्वरूप उनकी किंग्यत मृत्यु तथा उससे जुड़े अनुक्ती घटनाकृम से संबद्ध स्थितियों की जांच करने तथा भारत सरकार को इसकी रिपोर्ट देने के लिए भारत सरकार दारा कृमशः अप्रैल, 1956 तथा जुलाई, 1970 में गठित शाहनवाज़ स्थान समिति तथा स्थीसला जांच आयोग के निष्कर्ष यह थे कि नेताजी सुभाष चन्द्र बोस की मृत्यु एक विमान दुघटना में हुई है;

और जनता की यह व्यापक धारणा है कि नेताजी जी की मृत्यु के बारे में सच्चाई का पता लगाने का मुद्दा अभी भी यथावत् है ;

और इस मामले में आगे और जांच करने की निरंतर मांग रही है :

और कलकरता उच्च न्यायालय ने भी भारत सरकार को यह निर्देश दिया है कि इस विवाद को समाप्त करने के प्रयोजन के लिए विधि के अनुसार विस्तृत जांच कराई जाए, यदि आवश्यक हो तो इस प्रयोजन के लिए जांच आयोग का गठन किया जाए ;

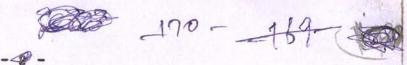
और पश्चिम बंगाल विधान सभा दारा 24·12·1998 को एक संकल्प पारित किया गया जिसमें नेताजी सुभाष चन्द्र बोस के पते-ठिकाने का रहस्योद्घाटन करने के लिए इस मामले में नए सिरे से जांच की मांग की गई है ;

और केन्द्रीय सरकार का यह मत है कि सार्वजिनक महत्व के निश्चित मामला, अर्थात् 1945 में नेताजी सुभाष चन्द्र बीस के गायब हो जाने की गहन जांच करने के प्रयोजन से एक जांच आयोग गठित किया जाना आवश्यक है;

अतः, अब केन्द्रीय सरकार, जांच आयोग अधिनियम, 1952 §1952 का 60 § की धारा 3 की उपधारा §1 §और §2 § दारा प्रदत्त शक्तियों का प्रयोग करते हुए एक जांच आयोग गठित करती है, जिसमें भारत के उच्चतम न्यायालय के सेवा निवृत्त न्यायमूर्ति श्री एम0के0 मुखर्जी होंगे।

2 • आयोग 1945 में नेताजी सुभाष चन्द्र बोस के लापता होने से संबंधित सभी तथ्यों और परिस्थितियों और इससे संबंधित पश्चात्वर्ती घटनाओं की जांच करेगा जिसमें निम्निलिखत भी हैं :--

§क र्वा नेताजी सुभाष चन्द्र बोस की मृत्यु हो गई है या वे जीवित हैं;



ईस ई यदि उनकी मृत्यु हो गई है तो क्या विमान दुर्घटना में उनकी मृत्यु हुई है जैसाकि अधिकधित है ;

§ग § क्या जापान के मिदर में जो अस्थियां हैं, वह नेताजी की ही अस्थियां हैं ;

१घ१ क्या उनकी मृत्यु किसी अन्य प्रकार से किसी अन्य स्थान पर हुई है और यदि ऐसा है, तो वह कब और कैसे हुई ;

्रेड • १ यदि वह जीवित हैं, तो उनके ठौर-ठिकाने के संबंध में जानकारी।

- 3 आयोग उस तरीके की भी जांच करेगा जिसमें ऐसे प्रकाशनों की, जिनमें नेताजी की मृत्यु या अन्यथा दुर्घटना होने के प्रश्न अन्तर्वितित हैं, जांच पड्ताल का कार्य केन्द्रीय सरकार दारा इन परिस्थितियों में आरंभ किया जा सकता है।
- 4. आयोग, अपनी रिपोर्ट केन्द्रीय सरकार को, यथाशीघ्र, किन्तु इस अधिसूचना के प्रकाशन की तारीख से छह मास के भीतर प्रस्तुत करेगा ।
- 5. आयोग का मुख्यालय नई दिल्ली में और/अथवा अन्य किसी स्थान पर होगा जैसा आयोग निर्धारित करे।
- 6. केन्द्रीय सरकार की राय है कि मामले की अन्य परिस्थितियों और की जाने वाली जांच के स्वरूप को ध्यान में रखते हुए जांच आयोग अधिनियम, 1952 \$1952 का 60 \$ की धारा 5 की उप धारा \$2 \$, उप धारा \$3 \$, उप धारा \$4 \$ और उप धारा \$5 \$ के सभी उपबंध उक्त आयोग को लागू किए जाने चाहिए और केन्द्रीय सरकार उक्त धारा 5 की उप धारा \$1 \$ बारा प्रदत्त शिक्तयों का प्रयोग करते हुए यह निदेश देती है कि उस धारा की उक्त उप धारा \$2 \$ से \$5 \$ तक के सभी उपबंध आयोग को लागू होंगे ।

१ निम्निल कुमार १ विशेष सचिव, भारत सरकार

§ फा0सं0 **♥**7/11034/18/98-आई0एस0 §डी-।।।§



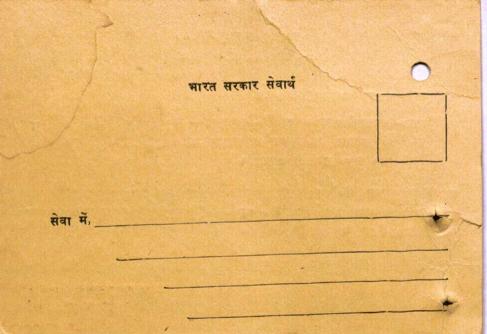
भारत सरकार मुद्रणालय,

14-5-99 दिनांक *** 198.

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> सहायक अजन्धनी (त्कनीकी) दूरभाष सं ... 5943मा

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SECRET/IMMEDIATE

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No.1-34020/4/99-Ad.IV Government of India/Bharat Sarkar Ministry of Home Affairs/Grih Mantralaya

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55 (16P)

New Delhi, the 6th May, 1999.

#### OFFICE MEMORANDUM

75(15/1)

Subject:

Minutes of the meeting of the Cabinet held on 28th April, 1999.

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Dir (15-1)

A copy of the Cabinet Secretariat communication No.24/CM/99(i) dated the 1st May, 1999, alongwith a copy of the relevant minutes of the meeting of the Cabinet held on the 28th April, 1999, is sent herewith for information and necessary action.

Lindby fee.

Themas Mathew )
Director(0&M)
Tel:301 5106

То

SS(ISP)

Case No.167/24/99 (Item 8)

m 24/5

16 m

No.24/CM/99(i) GOVERNMENT OF INDIA (BHARAT SARKAR) CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA) New Delhi, the 1st May, 1999. The undersigned is directed to circulate herewith the minutes of the meeting of the cabinet held on the 28th April, 1999. (Case Nos. 160/24/99 to Case Nos. 168/24/99). JSC4S) (S. Sasi Kumar) Under Secretary to the Cabinet. Tele: 3015344 Principal Secretary to the Prime Minister. Secretary to the Prime Minister. Copy, with a copy of the relevant minutes, forwarded to following in respect of the case(s) mentioned against each:-Secretary, Ministry of Food Processing Industries.

[63] Foreign Secretary (Case No.160 Secretary, Department of Agriculture (Case Nos. 160 and Cooperation. ( and 161 Secretary, Ministry of Textiles. (Case No. 161 Secretary, Planning Commission. (Case Nos. 161, ( 163 and 164 Finance Secretary. (Case Nos. 161 ( and 164 Secretary, Department of Expenditure. (Case Nos. 161, 162 ( 164,165 and 167 MSecretary, Ministry of Home Affairs. (Case Nos. 162, 163 ( 166 and 167 Secretary, Department of Legal Affairs. (Case Nos. 163 (166 and 167 Secretary, Ministry of Programme (Case No.164 Implementation. Secretary, Ministry of Power. (Case No.165 Chairman, Railway Board. Secretary, Ministry of Personnel, Public Grievances and Pensions. Secretary, Ministry of Social Justice (Case No.166 and Empowerment. Secretary, Ministry of Urban Development ( (S. Sasi Kumar) Under Secretary to the Cabinet. *ANV* SECRET 30 Copies.



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#### SECRET

COPY NO. 3

No.24/CM/99

#### CABINET SECRETARIAT

EXTRACT FROM THE MINUTES OF THE MEETING OF THE CABINET HELD AT 1130 HOURS, ON WEDNESDAY, THE 28TH APRIL, 1999, IN THE CONFERENCE ROOM (NO.155), SOUTH BLOCK, NEW DELHI.

OTHER ITEM

Case No.167/24/99

Item 8

Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhash Chandra Bose.

The Cabinet considered the note dated 21.4.99 from the Ministry of Home Affairs (Grih Mantralaya), circulated in the meeting, and approved the proposals contained in paragraph 7.1 thereof, with the modification that the creation of the posts of the supporting staff below joint secretary level for the Commission may be separately processed in consultation with the Department of Expenditure.

SECRET

*GSH* 4 copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the Council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.

Ridra Jyoti Bhattacharjee Residence: B. Sc., D.B.M., M.B.I.M., LL.B. FLORA PARK, GOALTULI ADVOCATE P.O. & Dist. Hooghly igh Court, Calcutta - Pin-712 103 Bar Association Room No. 2 Regd.with A/D Ph.: 80-3634 248-3190 248-5579 Date 26th July 1999 248-3169 Ministry of Home Dolhi तामिक (124.5.6) To, The Joint Secretary(IS.I) Ministry of Home Affairs, Government of India, North Block New Delhi-110 001 Attn to: Smt. Sangita Gairola, Joint Secretar? Your letter being No.D.O.No.VI/11034/18/98-D(III) Re: dated the 19th March, 1999 Dear Sir/Madam, Please consider your letter under reference conveyed intention of the Government to form Commission of Inquiry in compliance to the order dated 30-4-1998 passed in the writ petition No. 281 of 1998. But, you have not been able to form such Commission till date even after lapse of such a long period, which exposes Governmental deliberate procrastination. Please confirm me whether any Gazette Notification has been published regarding formation of Inquiry Commission in compliance Il-mend him as of the notification to the aforementioned order or not within two (2) weeks from the -date receipt hereof, failing which it shall be presumed that you deliberately and willfully intend to frustrate the said order passed by the Hon'ble High Court at Calcutta and your failure Sex Comparison of the sexual context would compell me to sexual sexual act before this Hopible sexual without any further reference to you, which please note. ADVOCATE.



REGD. WITH ME



No. VI/11034/18/98-IS(D.III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the 5th August, 1999.

M. Hall 3. (2)

Shri Rudra Jyoti Bhattacharjee, Advocate, Flora Park, Goaltul;

5 AUG 1999

Shri Rudra Jyoti Bhattacharjee, Advocate, Calcutta High Court, Bar Association, Room No. 2, CALCUTTA.

Subject : Appointment of a Commission of Inquiry to enquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and subsequent developments conducted therewith.

Sir,

I am directed to refer to your Regd. A/D letter No. NIL dated 26.7.99 addressed to Joint Secretary (IS-I), Ministry of Home Affairs, on the subject noted above and to inform you that keeping in view the direction of the Hon'ble Calcutta High Court for a vigorous enquiry in accordance with law, if necessary, by appointing a Commission of Inquiry for the purpose of giving an end to the controversy relating to Netaji Subhas Chandra Bose as also a Motion adopted on 24.12.1998 by the West Bengal Legislative Assembly demanding a fresh enquiry in the matter, a Commission of Inquiry has already been appointed by the Central Government consisting of Mr. Justice M.K. Mukherjee, a retired Judge of the Supreme Court of India. A copy of the Notification S.O.No. 339(E) dated 14.5.1999 is enclosed for your information and reference.

Yours faithfully,

( V.P. BHATIA )

UNDER SECRETARY TO THE GOVT. OF INDIA.

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#### SECRET

COPY NO.....

No.281/12/2/99-Cab.
GOVERNMENT OF INDIA (BHARAT SARKAR)
CABINET SECRETARIAT (MANTRIMANDAL SACHIVALAYA)

New Delhi, the 6th August, 1999.

#### OFFICE MEMORANDUM

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bosh.

The undersigned is directed to refer to the Cabinet Secretariat Memo. No.24/CM/99(i) dated 1st May,1999 forwarding the minutes of the meeting of the Cabinet held on 28th April,1999 (Case No.167/24/99) on the above mentioned subject and to request that action taken in pursuance of the decision of the Cabinet may kindly be intimated to the Cabinet Secretariat immediately.

(S. SASI KUMAR) UNDER SECRETARY

TELE: 3015344.

To,

Min. of Home Affairs, (Kind Attn.: Smt. Sangita Gairola, Joint Secretary), NEW DELHI.

SECRET

RT 2 copies.

Pl-inform inmediately
6.8.99

45 8 25 JOSE 16 218

S.M. SECRET

-179-437 IMMEDIATE

No. VI/11034/18/98-IS(D.III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

* * * *

New Delhi, the 10th August, 1999.

#### OFFICE MEMORANDUM

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Nataji Subhas Chandra Bose.

* * * *

The undersigned is directed to refer to Cabinet Secretariat O.M. No. 281/12/2/99-Cab. dated 6th August, 1999 on the subject noted above and to say that the Notification appointing a Commission of Inquiry consisting of Mr. Justice M.K. Mukherjee, a retired Judge of the Supreme Court of India, has already been issued by the Central Government on 14.5.1999. A copy of the Notification is enclosed for reference.

As regards the creation of posts, it may be stated that the required number of posts, as projected in the Cabinet Note submitted by this Ministry, have already been created in consultation with the Department of Expenditure. A copy of the communication issued by this Ministry in this regard is also enclosed for ready reference.

( V.P. BHATIA ) UNDER SECRETARY TO THE GOVT. OF INDIA.

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To

Cabinet Secretariat, (Shri S. Sasi Kumar, Under Secretary), Rashtrapati Bhavan, NEW DELHI.

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Speed Port 479 - 7705/Dis CI 4/19/100 S. NTO. __ (R) - 180- 30/9 3194/IS US(D. 14)/99

Justice Mukherjee Commission of Inquiry to inquire into the alleged disappearance of Netaji Subhas Chandra Bose.

Dated, the 28th September, 1999

From: Shri P. K. Sengupta, WBHJS(Retd.) Secretary. [Fax no.(033)235-5225].

To: Shri A. K. Paitandy, I.A.S.,
Director (IS-I),
Ministry of Home Affairs,
Government of India,
North Block, New Delhi - 110 001. (Fax no. 011-3017763)

Sub:- Extension of the term of Justice Mukherjee Commission of Inquiry set up by the notification dated 14.05.1999 of the Government of India, Ministry of Home Affairs (SO 339 E) for inquiry into the alleged disappearance of Netaji Subhas Chandra Bose.

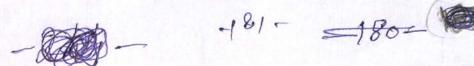
Sir,

I am directed by the Hon'ble Chairman to say that the initial term of 6 months of the Commission is going to expire on 13.11.1999, but the Commission has not yet been able to start functioning for the following reasons:-

- 1. Non-availability of essential infrastructure including suitable accommodation in Calcutta and manpower.
- 2. Long delay in the appointment of the Secretary to the Commission.
- 3. Non-availability of fund to the Commission for incurring the preliminary expenditure.

Till now, no accommodation is available for the Commission in Calcutta. No formal steps could be taken by the Commission for acquiring necessary accommodation and manpower until the appointment of the Secretary by the order dated 17.08.1999 of the Government of India, Ministry of Home Affairs. I took over charge of the Secretary on 19.08.1999. As you are aware, no accommodation for the Commission is available in any building of the Government of India in Calcutta. I am trying to get accommodation for the Commission in any suitable premises in Calcutta. As advised by you, I took up the matter with the Chairman-cum-Managing Director of the Cycle Corporation of India. In this connection, my letter dated 24.08.1999 may kindly be referred to. Subsequently, I wrote a d.o. letter dated 14.09.1999 to Shri S. P. Mukherjee, Chairman-cum-Managing Director of the Cycle Corporation of India, with a copy endorsed to

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you, requesting him to finalise the matter and communicate his decision as early as possible. Till now, no reply has been received from him.

I have also requested the Principal Secretary, Government of West Bengal, Public Works Department, to allot some vacant space for the Commission in any building of the Government of West Bengal. I have not yet received any reply to the letters dated 9.9.1999 and 14.9.1999 addressed to the Principal Secretary, Government of West Bengal, Public Works Department.

We got an offer of about 1675 Sq.ft. area on the first floor of the premises no. 203B, Acharya Jagadish Chandra Bose Road, Calcutta - 700 020 from its owner and I wrote to Shri Abhai Sinha, Superintending Engineer, Calcutta Circle -II, C.P.W.D. requesting him to assess the rent and issue a Rent Reasonableness Certificate. No reply has yet been received from the said Executive Engineer.

As it appears, it may take some more time to get a suitable office accommodation for the Commission in Calcutta. The Commission also needs some time to appoint officers and staff sanctioned by the order dated 2.6.1999.

In these circumstances, I am directed by the Hon'ble Chairman to request the Government of India to extend the term of the Commission by a further period of at least one year from 14.11.1999.

Considering the nature and wide scope of the matter of inquiry, the Commission is of compinion that a further term of one year is the bare minimum time necessary to complete the inquiry properly. It may also be taken into consideration that for ascertaining the truth the Commission may, in all probability, be required to visit different places not only in India but also abroad.

I am, therefore, directed to request you to kindly move the Government of India to extend the term of the Commission for a further period of at least one year from 14.11.1999.

Yours faithfully,

(P. K. Sengupta

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Immediale"

MHA/ IS-I Divn.

Subject! - Vetting and Hindi Translation of Netification.

m/o Law (official Lauguage - Legislative Wing)
may kindly see the enclosed droft Notification
vetted by the Legislative deptt and provide
a Hindi version of the same urgently.

US(D=0)

This notification is required to 5.11.99
be sent to the Gost. Bran lates SO(JMCI)
by 13.11.99 involving certain formulation
in the Ministry. Handi version may hister by
provided Patest by Monday, the 8th November 1111.

M/o Law (O.L. Legislative Wing) Bhagwarn Das Road, New Dellin'

5.11.53

Se) singl

MHA I.D. Mo. VI/11034/18/98-IS (DMI), dt-05-11.99.

James of Stiller

(ii) of the Gazette of India, Extraordinary dated the.....)

-184-20

Government of India
Ministry of Home Affairs

New Delhi, dated the... November, 1999

#### NOTIFICATION

S.O.....(E) - In exercise of the powers conferred by sub-section (1) of section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Home Affairs number S.O. 339(E), dated, the 14th May, 1999, namely,:-

In the said notification, for paragraph 4, the following paragraph shall be substituted, namely:-

"4. The Commission shall submit its report to the Central Government as soon as possible but not later than the 14th May, 2000".

(SANGITA GAIROLA)

JOINT SECRETARY TO THE GOVT. OF INDIA

(File No.VI/11034/18/98-IS(D.III)

Note: The notification appointing the Commission was published in the Gazette of India vide number 5.0. 339(E) dated 14-5-1999.

(SANGITA GAIROLA)
JOINT SECRETARY TO THE GOVT. OF INDIA

मारत सरकार विधि, न्याय और कंपनी कार्य मंत्रालय (विधायी विभाग) राजभाषा खंड -184-

भारतीय विधि संस्थान भवन, भगवानदास रोड, नई दिल्ली ।

अधिसूचना/आदेश/शुद्धिप	त्र/नियम/विनियम	का हिन्दी	पाठ
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उपयुक्त विषय में कृपया अपना पत्र संव M H A 1 D No VI / 1034/18/98-15() []]
तारीख 65-11-99 का अवलोकन करें । उक्त अधिसूचना/आदेश/शुद्धिपत्र
/नियम/विनियम के अनूदित हिन्दी पाठ की दो प्रतियां संलग्न है ।
अनुवाद के लिए सामग्री भेजते समय कृपया निम्नलिखित बातों पर

अवश्य ध्यान दें :-

1. अपना टेलीफोन नम्बर अवश्य लिखें ।

- तत्काल प्रकृति की फाइलें 12 बजे अपराहन (2-00) से पूर्व भेजें व सुसंगत कागजात सदैव पतोक्ति करके भेजें ।
- 3. अनुवादार्थ भेजी गई सामग्री के अंग्रेजी पाठ की विधि, न्याय और कंपनी कार्य मंत्रालय के विधायी विभाग से सम्यक रूप से विधीक्षा करवा तेने के पश्चात् उक्त अंग्रेजी पाठ की एक अतिरिक्त स्वच्छ टंकित प्रति यथाविधीक्षित अंग्रेजी पाठ और तत्संबंधी की गई नोटिंग आदि की फोटो कॉपी की एक प्रति के साथ ही भेजें।
- 4. उस मूल अधिसूचना/आदेश/नियम/विनियम की, जिसका संशोधन किया जा रहा है और उनमें किए गए पश्चातवर्ती संशोधनों की, यदि कोई हो, अंग्रेजी और हिन्दी प्रति संदर्भ हेतु अवश्य भेजें।

5. यदि संशोधनकारी अधिसूचना/आदेश/नियम/विनियम आदि तकनीकी/वैज्ञानिक प्रकृति के हैं तो कृपया उनका अनुवाद अपने स्तर पर कराकर उपलब्ध कराएं।

(श्यामा प्रसाद पाण्डेय)

अधीक्षक

टेलीफोन नं0 : 3388231

-------विभाग विधि, न्याय और कंपनी कार्य मंत्रालय, राजभाषा खंड डा० सं० 925 (९**६** अनु०-1) तारीख ९ - () = 199**६** 

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भारत के राजपत्र अहमाधारण, भीग 2, र्हंड 3, उपछंड 1111, तारीखा ... में प्रकाशनार्थ

> भारत सरकार युह मंत्रालय

> > नई दिल्ली तारीख

नवबर 1999

नेत्रीय -

का आ कि स्थाप सरकार, जांच आयोग अधिनियम 1952 1952 का 60 । की धारा 3 की उपधारा 111 द्वारा प्रदेश शाकियों का प्रयोग करते हुए भारत सरकार के गूह मंत्रालय की अधिसूचना सं का आ 339 131 तारीखा 14 मई 1999 में निम्नितिखत संगीधन करती है, अर्थात :—

उक्कत अधित्यना के पैरा 4 में स्थान पर निम्निनिश्चित पैरा रिक्वा नाएगा, अथात ! — "4.आयोग अपनी रिपोर्क केन्द्रीय सरकार की यथा संभव शीक्ष किन्तु 14 मई 2000 तक प्रस्तुत करेगा '7|

श्तंगीता गैरीला। संयुक्त सिचव,भारत सरकार ध्यान सं VI/I 1034/18/98 आई एस। श्डी III।

टिप्पण आयोग को नियुक्त करने वाली अधिसूचना भारत के राजपत्र में सा. का. नि 339 (24) तारीखा 14-5-99 में प्रकाशित हुई 8 थी ।

> संगीता गैरीलाः सुंयका सचिव, भातर सरकार

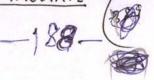
भारत के राजपत्र, अमाधारण, भाग 2, रवंड 3, उपरवंड (1) तारील-र्मा अवग्रायानाथी -186-80. आरत परकार गृह किया मंत्रालया गर्ड दिल्ली तारीख _ - गांवेबर 1999 का. 37 = - (37) केन्द्रीय (1001) जीया आयाजा अर्थानायम् 1952 (1952 का 60) की हारा 3 की उपधारा (1) द्वारा प्रदेस शाकितारी का प्रयोग कारत हुए गारत परकार की गृह करी गंगालया की अगिर्याचा रं का अग. अग. ३३९ (३०), ताताल, १५ गई १९९९ में निम्नालाखल जंद्रांधन करता है, अद्यात :-उनत अधिप्राना के पंता प के स्थान पर निमालाल त्रा राजा मारागां अहाति :-(14. आरोग अपना गरपार केन्द्रीय (गरकार का क्राह्मानकार् किन्त १५ मई २००० के प्रम् प्रतित करेगा ") सेवा में, ( प्राधित गरात्मा ) Marcian. भारत संख्यार मुद्रणालय पारीदाबाद ८ हरियाणा। निरायत निर्मत मारत पिरकार ( 47150 in VI/11034/13/98-37150 (31. <u>11</u>) हिर्पणा: आसाजा की नियुक्त करन वाली अगाँच प्रचना आरंत ob 21 7/2 7 17 001 371 - 339 (37), MICTICI 14-5-99 \$ Hanisid 83 21/1 (भगाता गर्मा मियुन्त भाषत भारतारार

मारत के राजपत्र, अनिहारणा, माग 2, रवंड 3, उपलंड (1) तारील --186--187-AFI प्रकाशनाश भारत एरकार गृह की मंत्रालय नाई दिल्ली तारीख _ - नावंबर 1999 आंध्याना क्ला. उगं. _ - (31) केन्द्रीय परकार जारा आया आयाजा अग्रिमानायम् 1952 (1952 apr 60) and Elici 3 and 348/1(1) 2111 427 2110-1211 का प्रयोग कारत हुए गारत परकार की ग्रेह क्ये मंत्रालश की आहे प्रयाना कि का अग. 3ग. 339 (37), तारील 14 गई 1999 में निक्नालाखत पंत्राधिन कारती है, अर्थात :-उनत अधिद्वाना के परा प के स्थान पर निम्नालालत पंता राला जाएगा, अव्यात : परा रखा माएगा, अधात.

(14. आदांश अपना रिपार केन्द्रीय प्रकार का केन्द्राम् किन्त 14 मर २००० के दूर्में मध्यत करेगा "। (12)1617 JI (1641) तिरावत नियंत, भारत प्रांकार ( 4750 in VI/11034/18/98-3715 1717 (3). 11 मिर्द्रपा: 3गर्याता की मियुक्त करन वाली अगर्थ प्रचना भारत के राजधार में ति का अग- 339 (अप), तारी ल 14-5-99 \$ Hanisid 83 217/ (फ जारिका जारोटका) मियुन्त भारत भारत भारता भारता



# No. VI/11034/18/98-IS(D.III) Government of India Ministry of Home Affairs IS Division



May 20ch

New Delk, the 12th November, 1999

To

The Manager,

Govt. of India Press,

Mayapuri, Ring Road, New Delhi.

Subject:

Extension of the term of Justice Mukherjee Commission of Inquiry appointed to inquire into the alleged disappearance of Netaji Subhas Chandra Bose - publication of Notification regarding.

14-05-2000

Sir,

Enclosed please find a copy of a notification (both in Hindi and English) to be published in Part II, Section 3, Sub Section (ii) of the Gazette of India, Extraordinary dated 14.11.99. It is requested that this notification may be published on 14.11.99 and 50 copies thereof provided to this Ministry urgently for further necessary action.

 It is also requested that S.O.No.allotted to this notification may be intimated to the undersigned urgently.

Yours faithfully,

12/11/91

(V.P. Bhatia)

Under Secretary to the Govt. of India

Tel: 3015700

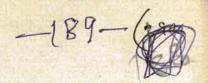
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(To be published in Part-II, Section 3, Sub-section (ii) of the Gazette of India, Extraordinary dated the. 14:11.29...)

Government of India
Ministry of Home Affairs

New Delhi, dated the 14 November, 1999

#### NOTIFICATION

S.O.....(E) - In exercise of the powers conferred by sub-section (1) of section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Home Affairs number S.O. 339(E), dated, the 14th May, 1999, namely,:-

In the said notification, for paragraph 4, the following paragraph shall be substituted, namely:-

"4. The Commission shall submit its report to the Central Government as soon as possible but not later than the 14th May, 2000".

(SANGITA GAIROLA)

Langita Gairola

JOINT SECRETARY TO THE GOVT. OF INDIA

(File No.VI/11034/18/98-IS(D.III)

Note: The notification appointing the Commission was published in the Gazette of India vide number 339(E) dated 14-5-1999.

Xangita Gairola

JOINT SECRETARY TO THE GOVT. OF INDIA

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भारत के राजपत्र, असाधारण, भाग−2, खण्ड−3, उपखण्ड्र ।। ﴿ में दिनांक १० ।। . ११ को प्रकाशनार्थ

भारत सरकार

गृह मंत्रालय

mala - - - TIS, 2000

नई दिल्ली, दिनांक 14 नवस्वर, 1999

14.05.2000

### अ विस्वना

का0आ0 ब्रेंब्रॉ केन्द्रीय सरकार, जांच आयोग अधिनियम, 1952 ब्रे1952 का 60 ब्रेंब्रिय अधिनियम, 1952 ब्रे1952 का 60 ब्रेंब्रिय अधिन्यम, 1952 ब्रे1952 का 60 ब्रेंब्रिय अधिन्यम, 1952 ब्रे1952 का 60 ब्रेंब्रिय की अधिन्यमा संग्रीय करते हुए भारत सरकार के गृह मंत्रालय की अधिन्यमा संग्रीय का0आ0 339 ब्रेंब्र्य दिनांक 14 मई, 1999 में निम्नतिखित संग्रीधन करती है, अर्थात्

उनत अधिसूचना के पैरा 4 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात्:-

"4. आयोग अपनी रिपोर्ट केन्द्रीय सरकार को यथासंभव श्रीच्र किन्तु 14 मई, 2000 तक प्रस्तुत करेगा ।"

> भेगीता शैबोला | संगता गेरोला | संयुक्त सचिव, भारत सरकार |भा०सं०-\/। 11034/18/98-आई०एस०|डी-।।।|

सेवा में,

प्रवंधक, भारत सरकार मुद्रणालय, मारा पुरी, रिंग रोड, ने मीरा दिञ्जी.

हिप्पणि: आयोग को नियुवत करने वाली अधिसूचना भारत के राजपत्र में सं० काठआठ 339 अं जारी तारीख 14.5.1999 में प्रकाशित हुई थी। कोर लायक्याल करें एक काठआठ 339 का जारी कार्या क



MOST IMMEDIATE

No. VI/11034/18/98-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
IS DIVISION

* * * *

New Delhi, the 17 November, 1999.

To

The Manager, Govt. of India Press, Mayapuri, Ring Road, NEW DELHI.

Subject: Extension of the term of Justice Mukherjee Commission of Inquiry appointed to inquire into the alleged disappearance of Netaji Subhas Chandra Bose - Publication of Notification regarding.

* * * *

Sir,

In continuation of this Ministry's letter of even number dated 12.11.1999 on the above subject. I am directed to request you to kindly intimate per bearer the S.O.No. of the Notification published in the Gazette of India Extraordinary dated 14.11.1999.

2. You are also requested to provide per bearer 50 copies of the said Notification as the same is urgently required in this Ministry for further follow-up action.

Yours faithfully,

m

( V.P. BHATIA )
UNDER SECRETARY TO THE GOVT. OF INDIA.
TEL.: 301 5700

301 5



-192 REGD. NO. D. L.-33004/99

# HRA AN USIUSI The Gazette of India

असाधारण EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं. 676]

No. 676]

नई दिल्ली, रविवार, नवम्बर 14, 1999/कार्तिक 23, 1921 NEW DELHI, SUNDAY, NOVEMBER 14, 1999/KARTIKA 23, 1921

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 14 नवम्बर, 1999

का. आ. 1090(अ).—केन्द्रीय सरकार, जांच आयोग अधिनियम, 1952 (1952 का 60) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शिक्तयों का प्रयोग करते हुए भारत सरकार के गृह मंत्रालय की अधिसूचना सं. का.आ. 339(अ) दिनांक 14 मई, 1999 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना के पैरा 4 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

"4. आयोग अपनी रिपोर्ट केन्द्रीय सरकार को यथासंभव शीघ्र किन्तु 14 मई, 2000 तक प्रस्तुत करेगा।"

[फा॰ सं॰-VI/11034/18/98-आई॰ एस॰ (डी-III)]

संगीता गैरोला, संयुक्त सचिव

टिप्पणी: आयोग को नियुक्त करने वाली अधिसूचना भारत के राजपत्र में सं० का० आ० 339(अ) तारीख 14-5-1999 में प्रकाशित हुई थी।

### MINISTRY OF HOME AFFAIRS NOTIFICATION

New Delhi, the 14th November, 1999

S.O. 1090(E).—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Home Affairs number S.O. 339(E), dated the 14th May, 1999, namely:—

In the said notification, for paragraph 4, the following paragraph shall be substituted, namely:—

"4. The Commission shall submit its report to the Central Government as soon as possible but not later than the 14th May, 2000."

[F.No. VI/11034/18/98-IS(D. III)]

SANGITA GAIROLA, Jt. Secy.

Note: The notification appointing the Commission was published in the Gazette of India vide number S.O. 339(E) dated 14-5-1999.

3343 GI/99

& K Sengupto, West



MOST IMMEDIATE

#### BY FAX

( FAX NO. 033 235-5225 )

C/o JUDL. SECRETARY, GOVERNMENT OF WEST BENGAL

No. I/12014/2/99-IS(D.III)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

* * * *

New Delhi, the 26th November, 1999.

To

Shri P.K. Sengupta, WBHJS (Retd.), Secretary, Justice Mukherjee Commission of Inquiry, 1B - 134, Salt Lake, Sector - III, CALCUTTA - 700 091.

Subject : Extension of the term of the Commission.

* * * *

Sir,

I am directed to say that the term of Justice Mukherjee Commission of Inquiry has since been extended by another six months beyond 14.11.1999. A copy of the Notification S.O.No. 1090(E) dated 14.11.1999 published in this regard is sent herewith for information/record.

( V.P. BHATIA ) UNDER SECRETARY TO THE GOVT. OF INDIA.

TEL.NO. 301 5700.

de

8 8 6/11/00/2 Str.

NEW DELATAUNAY, NOVIMBER 14, 1990/EASTINA 23, 1921 मुद्र मिलनी, संस्थात नेतावार का स्थाप निर्माण १३, १५

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MOST IMMEDIATE

## BY FAX (FAX NO. 033 235-5225) C/O JUDL. SECRETARY, GOVERNMENT OF WEST BENGAL

# NO.I/12014/2/99-IS(D.III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the 27h November, 1999

To

Shri P.K. Sengupta, WBHJS (Retd.)
Secretary
Justice Mukherjee Commission of Inquiry,
1B - 134, Salt Lake, Sector - III,
Calcutta- 700091

Subject:- ISSUE OF STATUTORY NOTIFICATION INVITING
STATEMENT REPRESENTATION ETC. FROM INTERESTED
PERSONS WITH REGARD TO NETAJI SUBHAS CHANDRA
BOSE

Sir.

I am directed to refer to this Ministry's Fax message of even number dated 26-11-1999 sending therewith a copy of the Notification S.O. No.1090(E) dated 14-11-1999, published in the Gazette of India Extraordinary extending the terms of the Commission for a further period of six months beyond 14-11-1999 and to request that the required Statutory Notification inviting statement, representation etc. from interested persons may now be issued forthwith without waiting for any further message in the matter from the Government of India. Any further information which you may need on the subject matter will be provided to you expeditiously either by Fax or on telephone.

2



2. Kindly confirm issuance of the required public notice by return fax on MHA fax nos. 301 7763 and 301 5750.

Yours faithfully,

(V.P. BHATIA) UNDER SECRETARY TO THE GOVT. OF INDIA TELE NO.301 5700

dw 27/11

SECRET COPY NO. 52

## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

#### NOTE FOR THE CABINET

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

#### 1. Background:

- 1.1 Netaji Subhas Chandra Bose, one of India's greatest sons, described as a "patriot of patriots" by Gandhiji, was fiercely committed to the cause of India's freedom. He believed that the British had to, and could, be driven away through armed action. He founded the Azad Hind Sarkar and led the Indian National Army (INA), in the fight against the British. He tirelessly moved from Malaya to Singapore, to Burma to Japan mobilising support and planning tactics and succeeded in getting Japan to extend its aid. He was on one of his missions when his airplane crashed immediately after take-off in Taihoku (Formosa), on 18 August, 1945.
- 1.2 Netaji had by then created an undying image for himself amongst his countrymen and such was his aura, and the awe in which he was held, that the report of his demise in a hospital, following the crash, was not universally accepted and, in fact, there has been an agonising question mark over it.
- 1.3 Government of India took note of the sentiment of millions of Indians who debated the veracity of the report of the aircrash and his subsequent death. It decided to institute an enquiry to ascertain the truth. In April, 1956, it was headed by Shri Shah Nawaz Khan, a close associate of Netaji, and it comprised Shri Sisir Bose and Shri S.N. Maitra. A majority of this committee, after a full enquiry,

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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

concluded that Netaji had indeed died in the plane crash and his mortal remains were kept in Renkoji Temple in Japan. The Government accepted this finding but it was not accepted by some sections of our people.

1.4 Demands were made by a number of Members of Parliament for a fresh enquiry. The Government of India, therefore, decided to set up a Judicial enquiry. In July, 1970, Justice G.D. Khosla was appointed to head this Commission of Inquiry. He completed his enquiry and he also concluded that Netaji had died as a result of the plane crash. The Central Cabinet accepted the finding of this Commission of Inquiry in August, 1974. But once again this finding did not gain universal acceptance such was Netaji's persona and his popular charisma.

## 2. Subsequent developments-Response of India's Prime Minister in 1978:

2.1 Shri Samar Guha, M.P., one of those with whom the report of Netaji's demise did not carry credibility, raised the matter in the Lok Sabha on a number of occasions and demanded another enquiry. On 28th August, 1978, Shri Morarji Desai, the then Prime Minister, responded to this in the Lok Sabha by stating that:

"the majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two repsorts and various important contradictions in the testimony of witnesses have been noticed. In the light of these doubts and contradictions and

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## GOVERNEMENT OF INDIA MINISTRY OF HOME AFFAIRS

those records, Government finds it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further hope that in the light of statement, my Hon. friend will withd raw motion".

#### 2.2 Shri Samar Guha replied as follows:-

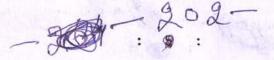
"Sir, Today is a great day for the whole Indian people because a mortal sin, a treacherous crime that was committed against the epic hero of Indian freedom has been undone. If I say that Netaji was given burial, out of political conspiracy, it would not be an exaggeration. Although there was not an iota of doubt or any positive proof to the contrary that the plane crash was nothing but fake, and the alleged crash did not involve Netaji at all."

#### 3. Immediate cause of action:

3.1 Much later arose the question of bringing back Netaji's mortal remains from Japan. It was felt that this could be done only if public opinion favoured it. While efforts to build such a favourable public opinion about this were to be undertaken, one Shri Rudra Jyoti Bhattacharjee of Calcutta filed Writ Petition No.281 in the Calcutta High Court in April, 1998 demanding a fresh enquiry into Netaji's alleged disappearance. A few other almost identical Writ Pétitions were filed in the Supreme Court and the High Courts of Calcutta and Orissa. These touched upon issues like the 'posthumous' grant of the 'Bharat Ratna' to Netaji,

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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

such publications which appear to touch the question of death or otherwise of Netaji if the same has the effect of disturbing the public order and causing incitement to violence.

Respondents, if so advised, shall inform all publication Houses to take its prior permission before any publication on the subject above is made and before granting such permission scrutinise in the manner as indicated above."

#### 4. Resolution of West Bengal Legislative Assembly:

4.1 The West Bengal Legislative Assembly also, on 29.12.1998, adopted a motion demanding;

"that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose".

- 4.2 The full text is at Appendix-II.
- 4.3 The State Government has recommended setting up of an enquiry into the mysterious disappearance of Netaji Subhas Chandra Bose. Its letter is at Appendix-III.
- 5. Exploring avenues to meet the developments-meeting of eminent opinion makers:
- 5.1 Government of India took note of the judgement of the Calcutta High Court and the motion passed by the West

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## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTYRY OF HOME AFFAIRS

Bengal Legislative Assembly. A meeting of eminent persons was convened by the Union Home Minister on 25.3.1999 to discuss the manner in which action be taken to give effect to the directions of the Calcutta High Court and the motion of the West Bengal Legislative Assembly. The invitees were close associates of Netaji Subhas Chandra Bose as well as some other persons whose views would be crucial intaking a decision in the matter. Those who attended are Col. G.S. Dhillon, Dr. Sisir Kumar Bose, Justice (Retd) R.S. Narula, Dr. D.B. Kalmankar, Shri Soli Sorabji, Attorney General of India and representatives of the Prime Minister's Office, Ministry of External Affairs, Ministry Department of Education, Ministry of Law, and officials of the Ministry of Home Affairs. Col. Laxmi Sehgal invited, could not attend, but she sent her views which were circulated to all those who attended the meeting.

5.2 Discussions in the meeting were based on the personal knowledge and experiece of those present, the findings of the Shah Nawaz Khan Committee and the Khosla Commission. It was ultimately felt that in order to take the matter to its logical end and that also once for all, it would be advisable to setup another Commission of Inquiry as a very special case for the purpose of arriving at a definite conclusion regarding Netaji Subhas Chandra Bose.

#### 6. Proposed action plan:

6.1 It is, therefore, proposed to appoint a Commission of Inquiry under Section 3 of the Commissions of Inquiry Act, 1952 to enquire into the alleged disappearance of Netaji Subhas Chandra Bose. The terms of reference of the Commission are contained in the draft notification which is at Appendix-IV.

Contd. . 7/-

## FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS ****

- 6.2 It is also proposed that the Chief Justice of India may be approached to suggest the name of a suitable person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry.
- 6.3 It is further proposed to have a number of posts created viz one post of Chairman; one post of Secretary; one post of Officer on Special Duty and 21 other posts representing the supporting staff in the scales of pay indicated against each post in the statement at Appendix-V with a view to enable the Commission to commence functioning without undue delay. The number of posts projected at Appendix-V, depending upon the functional requirement once the Commission gets going, may go up further. This additional requirement of further posts also needs to be kept in view.

#### 7. Approval sought:

- 7.1 Approval of the Cabinet is therefore solicited to the following:-
  - (i) Appointment of a Commission of Inquiry as proposed in para 6.1 and 6.2 above and;
  - (ii)Creation of initial requirement of supporting staff for the Commission as contained in para 6.3 above.
- 8. A statement of implementation schedule is at Appendix-I.

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#### FILE NO.VI/11034/18/98.D(III) GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

9. The views of the Ministry of Law, Justice and Company Affairs were sought in the matter and are yet to be received. Their views may be ascertained in the meeting.

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- Views of Ministry of Finance have been obtained (Appendix-VI). The overall financial implication for the creation of posts as proposed at Appendix-V works out to approximately Rs. 38,80,000 p.a. Specific proposals for creation of posts would be moved on file separately to . Ministry of Finance (Department of Expenditure) once the proposal is approved.
- This note has been seen and approved by the Home Minister.

(NIKHIL KUMAR)

Date: 21st-April, 1999

Special Secretary(ISP)

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FILE NO. VI/11034/18/98.D(III)
MINISTRY OF HOME AFFAIRS

* * * *

#### STATEMENT OF IMPLEMENTATION SCHEDULE

Subject: Appointment of a Commission of Inquiry to enquire into the alleged disappearance of Netaji Subhas Chandra Bose.

List of the decisions required

Projected benefits/results

Time schedule for manner of implementation/reporting to Cabinet Secretariat.

Directions of the Cabinet are solicited for appointing a Commission of Inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952) to inquire into the alleged disappearance of Netaji Subhas Chandra Bose and creation of posts with regard thereto.

The inquiry will give an end to the controversy of alleged disappearance of Netaji Subhas Chandra Bose.

Steps for appointment of the Commission will be taken immediately on Cabinet approval.

2104- 9

(NIKHIL KUMAR) Special Secretary (ISP) : SECRET

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FILE NO. VI/11034/18/98.D(III)
MINISTRY OF HOME AFFAIRS

THE WEST BENGAL LEGISLATIVE ASSEMBLY ON 24,12.98.

This House notes, with grave concernthat the people and scholars of India are still in the dark about the mysterious disappearance of Netaji Subhas Chandra Bose during the Second World War;

that different statements were made on the floors of Parliament at different times regarding whereahouts of

Netaji Subhas Chandra Bose;

that the judicial pronouncements of the Supreme Court and High Court in India created more suspicions in the minds of people of India regarding Netaji's alleged death in the plane crash; and

that the records and documents in different countries of Europe, America, Far East and South East Asis and also India regarding the mysterious disappearance of Netaji Subhas Chandra Bose after alleged plane crash have not been made available to the people and scholars of India.

This House is of the opinion-

that the report of the death of Netaji Subhas Chandra Bose on an alleged plane crash has not been proved beyond doubt; and

that the report of the two Commissions of Enquiry set up by the Government of India are not believed by the people and scholars of India.

This House, therefore, through the State Government demands that the Government of India should make necessary arrangements for availability of records and documents in and outside India so that the scholars and people could have access to them and also to institute a fresh enquiry commission in order to remove the mystery regarding the whereabouts of Netaji Subhas Chandra Bose.

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FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS Appendix-III

Government of West Bengal Department of Parliamentary Affairs

No. 634-PA.

Pated 6th April, 1999.

From :

R.P.S. Kahlon, LAS

Joint Secretary.

Farliamentary Affairs Department,

Government of West Bengal.

To

Shri A. K. Paitandi, IAS Director, Internal Security, Ministry of Home Affairs, Government of India. Fax No. 011-301 5750.

Sir,

Please recall your telephonic conversation with Principal Secretary, Home and Home Secretary, Government of West Bengal on 5th April, 1999 regarding the setting up of a Commission of Enquiry into the mysterious disappearance of Netaji Sublus Chandra Bose. A resolution regarding this subject was adopted in the West Bengal Legislative Assembly on December 24, 1998.

The State Government recommands setting up of an inquire into the mystorious disappearance of Netari Subhas Chandra Bose.

Sir (15-1)

Tuportant at

April ad

Yours fait sfully,

(R.P.S. Kahler)
Joint Secretary.

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FILE NO. VI/11034/18/98.D(III)
MINISTRY OF HOME AFFAIRS

Appendix - TV

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(TO BE PUBLISHED IN PART II, SECTION 3, SUB SECTION(11) OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED )

#### GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi, the

Khosla Commission of Inquiry appointed by the Government of India in April, 1956 and July, 1970 respectively to inquire into and to report to the Government of India on the circumstances concerning the departure of Netaji Subhas Chandra Bose from Bangkok about the 16th August, 1945, his reported death as a result of an air craft accident, and subsequent developments connected therewith had come to the conclusion that Netaji Subhas Chandra Bose met his death in an air crash.

And, whereas there is a wide spread feeling among the public that the problem of finding the truth about Netaji's death still remains.

And, whereas there has been a consistent demand for a further inquiry into the matter.

And, whereas the Calcutta High Court also directed Government of India to launch a vigorous inquiry, if necessary by setting up of a Commission of Inquiry for the purpose of giving an end to the controversy.

And, whereas a resolution has been passed in West Bengal Assembly wherein a demand has been made for a further inquiry into the matter.

And whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making inquiry into a definite matter of a public importance, namely the disappearance of Netaji Subash Chandra Bose in 1945.

Now, therefore, in exercise of powers conferred by Section 3 of the Commission of Inquiry Act, 1952(60 of 1952),

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### FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS

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Sacret

the Ce	ntral	Government	hereby	appoints	a	Commission	of	Inquiry
consis	ting	of					10	

- 2. The Commission shall inquire into all the facts and circumstances related to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments connected therewith including:-
  - (a) whether Netaji Subash Chandra Bose is dead or alive:
  - (b) if he is dead, whether he died in the plane crash, as alleged:
  - (c) whether the ashes in the Japanese temple are ashes of Netaji;
  - (d) whether he has died in any other manner at any other place and, if so, when and how;
- (e) if he is alive, in respect of his whereabouts:

  The Commission Shoul also expanise the manner in which the exercise

  of Senting of Publications touching upon the question of death

  or otherwise of Weter Coule undertaken by the God in the Circumstances
- 3. The Commission shall submit its report to the Central Government as soon as possible but not later than 6 months from the date of publication of this Notification.
- 4. The headquarters of the Commission shall be at New Delhi, and/or any other place determined by the Commission.
- regard to the nature of the inquiry to be made and other circumstances of the case, all the provisions of subsection(2), sub-section(3), sub-section(4) and sub-section(5) of Section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952) should be made applicable to the said Commission and the Central Government, in exercise of the powers conferred by sub-section(1) of the said section 5, hereby directs all the provisions of the said sub-section (2) to (5) of that section shall apply to the Commission.

(File No. VI/11034/18/98-IS(D.III)

Spl. SECRETARY

FILE NO. VI/11034/18/98.D(III)

MINISTRY OF HOME AFFAIRS

List of the leutaline. staff required for the Communition.

No	1.	Designation & Scale of Pay	Date No	.of Pos	t ·
1.		Chairman (Rs.30,000 fixed)	13:11:49	1	
2.	. :	Secretary(Rs.14,300-18,300)		1	
3.	1	Officer on Special Duty (Rs.12,750-16,500)		1	
4.		Court Master (Rs.10,000-15,200)		1	
5.		Section Officer (Rs.6,500-10,500)		2	
6.		Assistant (Rs.5,500-9000)		2	
7.		(Rs.5,500-9000)		1	
8.		Cashier (Rs.5,500-9000)		1	
9.	idis	Typist (Rs.3,050-4,590)		2	
10.		Principal Pvt.Secy. (Rs.10,000-15,200)		1	
11.		Private Secretary (Rs.6,500-10,500)		2	
12.		Steno Gr'C' (Rs.5,500-9,000)		2	
13.		Peon (Rs.2550-3200)		3	

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#### FILE NO. VI/11034/18/98.D(III) MINISTRY OF HOME AFFAIRS

Jamadar
(Rs. 2610-3540)

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15. Safaiwala (Rs.2550-3200)

16. Bailiff

1

17. Process Server

1

.. Trocess Server

- 45

Court Meater

SECRET

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1000, 9-002, 8.

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File No. VI/11034/18/98.D(III)
Ministry of Home Affairs

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## CABINET NOTE ON APPOINTMENT OF A COMMISSION OF INQUIRY TO ENQUIRE INTO THE ALLEGED DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE

Analysis of the Comments received from Ministry of Finance, Department of Expenditure

S.No.

Comments

MHA's clarification

- 1. Two enquiries, first in 1956 and second in 1970 have already been conducted holding that Netaji had died. It is doubtful if after a lapse of so many years a fresh enquiry would yield different results. The setting up of another Commission seems avoidable.
- The present Commission under the Commission of Inquiry Act is being proposed in compliance of the judgement of the Calcutta High Court on Writ Petition No. 281 and a Motion adopted in the West Bengal Legislative Assembly on 29.12.98, which has been duly recommended by the West Bengal Government.
- No tenure for the Commission of Inquiry has been prescribed. This is required so as to assess the financial implications.
- The draft notification (Appendix-IV) prescribes a term of 6 months for the Commission.
- 3. Budgetary support required has not been indicated and is required to be brought out.
- Approximately, an amount Rs. 38,80,000 per annum will be required on account of salary for the Chairman and other officers/staff mentioned in the statement at Appendix-V. However, this is the initial requirement for enabling the commence Commission to functioning, and may go up further depending on the actual requirement.
- 4. In keeping with the Department of Expenditure's O.M. dated 8.10.1987 relating to terms and conditions of retired judges appointed as Chairman/Members of Commissions of Inquiry, the pay scale for the Chairman would be Rs. 30,000/- only if he is a retired judge of the Supreme Court or Chief Justice of a High Court.

The proposal contained in para 6.2 viz. to appoint a person from amongst retired Judges of High Courts or the Supreme Court of India to conduct the enquiry is tentative and would depend on the approval of the Cabinet.

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#### SECRET

File No. VI/11034/18/98.D(III)
Ministry of Home Affairs

* * * *

5. As regards creation of other posts, the proposal should be referred on file bringing out full functional justification for creation of each post duly supported by matching savings.

ther A specific proposal will be moved on file separately for out the creation of the posts tion bringing out full functional duly justification for creation of each post and will be referred to the Ministry of Finance, Department of Expenditure, after approval in principle by Cabinet.

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भारत सरकार गृह मंत्रालय

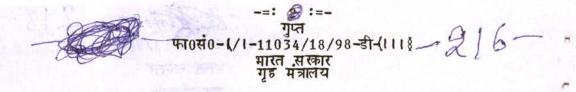
### मंत्रिमण्डल के लिए नोट

विषय : नेताजी सुभाष चन्द्र बोस के तथाकथित गायब हो जाने के संबंध में जांच करने के लिए जांच आयोग की नियुक्ति ।

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### । पृष्ठभूमि ः

- 1.1 भारत के महान सपूत नेताजी सुभाष चन्द्र बोस, जिन्हें गांधी जी ने "देशमक्तों का देशमक्त" कहा, भारत की स्वतंत्रता के लिए अत्यधिक प्रतिबद्ध थे । उनका विश्वास था कि अंग्रेजों को सशस्त्र कार्रवाई से निकालना पड़ेगा और निकाला जा सकता था । उन्होंने आजाद हिन्द सस्कार की स्थापना की और अंग्रेजों के विरूद्ध लड़ाई में इंडियन नेशनल आर्मी १ आई 0एन 0ए 0१ का नेतृत्व किया । सहायता प्राप्त करने और रणनीति बनाने के लिए वह निरंतर मलाया से सिंगापुर और वहां से बर्मा तथा जापान गए तथा इसके लिए जापान की सहायता प्राप्त करने में सफल हो गए । जब वह अपने मिशन पर थे तब 18 अगस्त, 1945 को तायहोकू १ फारमोसा १ से प्रस्थान करने के तत्काल बाद उनका वायुयान दुर्घटनाग्रस्त हो गया।
- 1.2 तब से नेताजी ने अपने देशवासियों में अपनी अमिट छिव बना ली थी तथा उनका प्रभाव ऐसा था और उनके प्रति ऐसी श्रद्धा थी कि दुर्घटना के बाद अस्पताल में उनके निधन की खबर को सर्वत्र माना नहीं गया और वास्तव में इस बारे में अत्यन्त कष्टदायक विवाद बना हुआ है।
- 1.3 भारत सस्कार ने ऐसे करोड़ो भारतीयों की भावनाओं की ओर ध्यान दिया जिन्होंने वायुयान के दुर्घटनाग्रस्त होने और बाद में उनका निधन होने की खबर की सच्चाई के बारे में वाद-विवाद किया । सच्चाई का पता लगाने के लिए भारत सस्कार ने जांच कराने का निर्णय लिया। और ल, 1956 में इसकी अध्यक्षता नेताजी के निकट सहयोगी श्री शाहनबाज खां ने की तथा इसमें श्री शिशिर बोस और श्री एन0 मैत्रा सिम्मिलत थे । पूरी जांच के बाद इस सिमित ने बहुमत से यह



निष्कर्ष निकाला कि वास्तव में वायुयान दुर्घटना में नेताजी का देहान्त हो गया था और उनके पार्थिव अवशेष जापान में रेनकोजी मंदिर में रखे हुए हैं । सस्कार ने इस निष्कर्ष को स्वीकार कर लिया परन्तु समाज के कुछ वर्गों ने इसे स्वीकार नहीं किया ।

1.4 अनेक संसद सदस्यों ने नई जांच कराने की मांग की । अतः भारत सरकार ने न्यायिक जांच कराने का निर्णय लिया । जुलाई, 1970 में न्यायमूर्ति जी०डी० खोसला को इस जांच आयोग का अध्यक्ष नियुक्त किया गया । उन्होंने अपनी जांच पूरी की और उन्होंने भी यह निर्णय लिया कि नेताजी का देहान्त वायुयान दुर्घटना में हो गया था । केन्द्रीय मंत्रिमंडल ने अगस्त, 1974 में इस जांच आयोग के निर्णय को स्वीकार किया । पस्नु नेताजी का व्यक्तित्व और उनका लोकप्रिय करिश्मा ऐसा था कि इस निर्णय को सर्वत्र स्वीकार नहीं किया गया ।

#### बाद की घटनाएं - 1978 में भारत के प्रधानमंत्री की प्रतिक्रियाः

2.1 श्री समर गुहा, संसद सदस्य, जो उन व्यक्तियों में से एक थे जिन्होंने नेताजी के निधन की खबर पर विश्वास नहीं किया, ने यह मामला कई बार लोक सभा में उठाया और दूसरी जांच कराने की मांग की । 28 अगस्त, 1978 को तत्कालीन प्रधानमंत्री श्री मेरारजी देसाई ने लोक सभा में इसका यह कहते हुए उत्तर दिया:

"पहली सिमित की बहुमत रिपोर्ट और श्री खोसला ने निधन की खबर को सच माना। तब से, इन दोनों रिपोर्ट के निष्कर्षों की सच्चाई के बारे में युक्तियुक्त संदेह व्यक्त किया गया है तथा गवाहों के साक्ष्य में अनेक महत्वपूर्ण विरोधामास देखे गये हैं। इन संदेहों और विरोधामासों तथा उन रिकार्डों को ध्यान में रखते हुए सरकार के लिए यह स्वीकार करना कठिन है कि पहले के निष्कर्ष निर्णायक हैं। साथ ही सरकार का मत है कि पुन: कोई जांच कराने से कोई सार्धक प्रयोजन सिद्ध नहीं होगा। मुझे आशा है कि इस बात को देखते हुए मेरे माननीय मित्र अपना प्रस्ताव वापस ले लेंगे।"

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#### 2.2 श्री समर गुहा का उत्तर इस प्रकार था:-

"महोदय, आज का दिन सभी भारत वासियों के लिए महत्वपूर्ण दिन है क्योंकि आज भारतीय स्वाधीनता संग्राम के महाज्ञायक के विरुद्ध जो जधन्य अपराध किया गया धा उससे मुक्ति प्राप्त कर यदि मैं कहूं कि राजनीतिक षडयंत्र के तहत नेताजी को दफना दिया गया था तो कोई अतिश्योक्ति नहीं होगी । हालांकि इस बात में रंचमात्र भी संदेह नहीं है कि हवाई दुर्घटना कभी हुई ही नहीं थी और कथित दुर्घटना में नेताजी किसी भी प्रकार से शामिल ही नहीं थे । इस संबंध में आज तक कोई सबूत नहीं मिला है ।

#### कार्रवाई का तात्कालिक कारणः

3.1 नतोजी के पार्थिव अवशेष को जापान से वापस लाने का प्रश्न काफी बाद में उठा। उस समय यह महसूस किया गया कि इसे तभी अंजाम दिया जा सकता है जब जनमत इसके पक्ष में हो । जिस समय ऐसा जनमत जुवने के प्रयास प्रारंभ किए जाने वाले थे तभी कलकता के एक सज्जन श्री रुद्र ज्योति भड्दावार्जी ने 1 अप्रैल, 1998 को कलकता उच्च न्यायालय में एक रिट याचिका संख्या 281 दायर की जिसमें उन्होंने नेताजी के कथित रूप से गायब हो जाने के संबंध में नए सिरे से जांच किए जाने की मांग की । उच्चतम न्यायालय और कलकता तथा उडीसा उच्च न्यायालयों में भी लगभग इसी प्रकार की कुछ रिट याचिकार्ये दायर की गई । इनमें नेताजी को मरणोपरान्त "भारत रत्न" प्रदान करने, उन्हें युद्र अपराधी घोषित किया गया था अथवा नहीं, उनके पार्थिव अवशेष को किन परिस्थितियों में भारत लाया जा सकता है आदि जैसे मुद्दों को स्पर्श किया गया था।

3.2 कलकता उच्च न्यायालय ने श्री भट्टाचार्जी द्वारा दायर रिट याचिका पर 30.4.1998 को अपना निर्णय सुनाते हुए निदेश दिया कि इस विवाद का अंत करने के लिए विधि के अनुसार, यदि आवश्यक हो तो जांच आयोग का गठन करके इसकी व्यापक छानबीन की जाए । जिन बिन्दुओं पर जांच का ध्यान केन्द्रित किया जाना है वे इस प्रकार हैं:-



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  नेताजी सुभाष चन्द्र बोस जीवित हैं या मृत,
- यि उनकी मृत्यु हो चुकी है तो क्या उनकी मृत्यु हवाई दुर्घटना में हुई,
   तैसा कि कहा जाता है,
- §ग इं क्या जापानी मंदिर में रखे अस्थि-अवशेष नेताजी के हैं,
- ्राप्त वे जीवित हैं तो उनका पता ठिकाना क्या है ।

प्रतिवादी उक्त प्रयोजन से इस न्यायालय दारा 1997 की रिट याचिका सं0 1805 में दिए गए निदेशों अर्थात भारत के लोगों को विश्वास में लैने का पालन करेगा।

प्रतिवादी उक्त मामले से संबंधित सभी प्रकाशनों की जांच उपयुक्त स्तर पर करके, आवश्यक होने पर ऐसे प्रकाशनों पर प्रतिबंध लगाएगा जो नेताजी की मृत्यु या किसी अन्य पक्ष से संबंधित हो और उनसे लोक व्यवस्था में व्यवधान हो सकता हो और हिंसा भड़क सकती हो ।

> प्रतिवादी यदि उन्हें ऐसी सलाह दी जाएगी वो सभी प्रकाशन गृहों को सूचित करेंगे कि वे इस विषय पर कोई प्रकाशन करने से पहले इनकी पूर्व अनुमित लें और ऐसी अनुमित देने से पहले वे उपर्युक्त तरीके से संवीक्षा धूजांच करें ।





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- 4. पश्चिम बंगाल विधान सभा का संकल्पः
- 4·1 पश्चिम बंगाल विधान सभा ने भी 29·12·1998 को एक प्रस्ताव अपनाया जिसमें मांग की गई:

"िक भारत सरकार भारत और उसके बाहर अभिलेखों और दस्तावेजों की उपलब्धता के लिए आवश्यक प्रबंध करे ताकि शिक्षाविद और लोग उन्हें देख सकें तथा यह एक नया जांच आयोग भी बनाया जाए ताकि नेताजी सुभाष चन्द्र बोस के पते ठिकाने से संबंधित रहस्य को दूर किया जा सके ।"

- 4•2 पूरा पाठ परिशिष्ट-।। पर है ।
- 4.3 राज्य सरकार ने नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता हो जाने के बारे में जांच आयोग के गठन की सिफारिश की है। इसका पत्र परिशिष्ट-।।। पर दिया गया है।
- घटनाक्रम पर कार्रवाई करने के तरीकों का पता लगाना राय बनाने वाले प्रतिष्ठित
   व्यक्तियो की बैठकः
- 5.1 भारत सरकार ने कलकत्ता उच्च न्यायालय दारा दिए गए फैसले तथा पश्चिम बंगाल विधान सभा दारा पारित प्रस्ताव को नोट किया । केन्द्रीय गृह मंत्री दारा 25.3.1999 को प्रतिष्ठित व्यक्तियों की एक बैठक बुलाई गई जिसमें चर्चा की गई कि कलकत्ता उच्च न्यायालय के निदेशों तथा पश्चिम बंगाल विधान सभा के प्रस्ताव पर किस प्रकार कार्रवाई की जाए । आमंत्रित व्यक्ति नेताजी सुभाष चन्द्र बोस के निकट सहयोगी तथा कुछ अन्य ऐसे व्यक्ति थे जिनके विचार इस मामले में कोई निर्णय लेने में निर्णायक होंगे । भाग लेने वालों में कर्नल जी0एस0 दिल्लों,





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डा० शिशिर कुमार बोस, न्यायमूर्ति १ सेवानिवृत्त १ आर०एस० नहला, डा० डी०बी० कलमांकर, श्री सोली सोराबजी, भारत के महान्यायवादी तथा प्रधानमंत्री कार्यालय, विदेश मंत्रालय, रक्षा मंत्रालय, शिक्षा विकार, विदेश मंत्रालय के प्रतिनिधि तथा गृह मंत्रालय के अधिकारी शामिल थे। कर्नल लक्ष्मी सहगल को आमंत्रित किया गया था किन्तु वे भाग नहीं ले सकी किन्तु उन्होंने अपने विचार मेज दिए जिन्हें बैठक में भाग लेने वालों के बीच परिचालित किया गया।

5.2 बैठक में किया गया विचार-विमर्श उपस्थित व्यक्तियों की व्यक्तिगत जानकारी तथा अनुभव, शाह नवाज खान सीमिति तथा खोसला आयोग के निष्कर्षों पर आधारित था । अन्ततः यह महसूस किया गया कि इस मामले को एक बार तर्कपूर्ण ढंग से समाप्त करने के लिए नेताजी सुभाष चन्द्र बोस के संबंध में ठोस निष्कर्ष तक पहुँच ने के प्रयोजन से एक बहुत विशेष मामले के रूप में दूसरा जांच आयोग गठित करना उचित होगा ।

#### 6 प्रस्तावित कार्य योजनाः

- 6.1 अतः यह प्रस्ताव किया जाता है कि जांच आयोग अधिनियम, 1952 की धारा 3 के तहत एक जांच आयोग नियुक्त किया जाए जो नेताजी सुभाष चन्द्र बोस के कथित लापता हो जाने के बारे में जांच करे । आयोग के विचारार्थ विषय अधिसूचना के मसौदे में दिए गए हैं जो परिशिष्ट-11/ पर है ।
  - 6.2 यह भी प्रस्ताव किया जाता है कि भारत के मुख्य न्यायाधीश से निवेदन किया जाए कि वे जांच करने के लिए भारत के उच्चतम न्यायालय या उच्च न्यायालयों के सेवानिवृत्त न्यायाधीशों में से किसी एक उपयुक्त व्यक्ति के नाम का सुझाव दें।
  - 6.3 अध्यक्ष का एक पद; सचिव का एक पद, विशेष कार्य अधिकारी का एक पद और 21 अन्य पदों को निरूपित करने वाले समर्थक पद स्राजित किए जाने का भी प्रस्ताव है जिनके वेतनमान परिशिष्ट-।/ पर दिए गए विवरण में प्रत्येक पद के सामने दर्शाए गए हैं ताकि आयोग





-: क्रुः-गुप्त फा0सं0 १/1-11034/18/98-डी \$111\$ भारत सरकार गृह मंत्रालय

अनुचित देरी के बिना अपना कार्य शुरू कर सके । पिरिशष्ट- \ पर दिए गए पदों की संख्या, जो कि आयोग के कार्यकलापों के शुरू होने पर उस की आवश्यकता पर निर्भर कस्ती है, आगे बढ सकती है । आगे और पद बनाने की आवश्यकता को भी ध्यान में रखे जाने की जरूरत है ।

- एप्रार्थित अनुमोदनः
- 7.1 अतः निम्नलिखित के लिए मंत्रिमंडल का अनुमोदन प्रार्थित है:-
- ≬ iं≬ उपरोक्त पैरा 6 1 और 6 2 में यथा प्रस्तावित जांच आयोग की नियुक्ति और,
- §ii§ उत्पर पैरा 6•3 में यथाविनिर्दिष्ट आयोग के लिए समर्थक स्वप्त के प्रारंभिक पदों का सूजन ।
- कार्यान्वयन अनुसूची विवरण परिशिष्ट- पर है।
- 9• इस मामले में विधि, न्याय और कंपनी कार्य मंत्रालय के विचार मांगे गए थे और वे अभी प्राप्त होने हैं । बैठक में उनके विचार मालुम किए जाएं ।
- 10 वित्त मंत्रालय के विचार प्राप्त हो गए हैं १परिशिष्ट-ा/। । परिशिष्ट-ा/ पर यथा प्रस्तावित पदों के सृजन के बारे में कुल वित्तीय दायित्व लगभग 38,80,000/- रू० प्रतिवर्ष है। एक बार प्रस्ताव का अनुमोदन हो जाने पर पदों के सृजन के बारे में विशिष्ट प्रस्ताव वित्त मंत्रालय १००४ विभाग को अलग से फाइल पर प्रस्तुत किए जाएंगे ।
- 11. इस नोट को गृह मंत्री जी ने देख लिया है और अनुमोदित कर दिया है।

शिनीबल कुमार।

विशेष सचिव, भारत सस्कार

दिनांक 21 अप्रैल, 1999

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परिशिष्ट-<u>I</u>

### कार्यान्वयन अनुसूची विवरण

विषय : नेताजी सुभाष चन्द्र बोस के कथित लापता होने की जांच करने के लिए जांच आयोग की नियुक्ति ।

अपेक्षित निर्णय का सार	संभावित लाभ/परिणाम	कार्यान्वयन के तरीके/मंत्रिमंडल सचिवालय को सूचित करने के लिए समय-अनुसूची
नेताजी सुभाष चन्द्र बोस के कथित लापता होने की जांच करने के लिए जांच आयोग अधिनियम, 1952 §1952 का 60§ के तहत जांच आयोग की नियुक्ति और उससे संबंधित पदों के सृजन के लिए मंत्रिमंडल के निर्देश प्रार्थित हैं।	इस जांच से नेताजी सुभाष चन्द्र बोस के कथित लापता होने का विवाद सत्म हो जाएगा।	मंत्रिमण्डल के अनुमोदन पर आयोग की नियुक्ति के लिए तत्काल कदम उठाए जाएंगे।

३ निषित कुमार विशेष सचिव, भारत सरकार

परिशिष्ट-।।



#### गुप्त फा0सं0 1/1/11034/18/98-डी§।।।§ गृह मंत्रालय

पश्चिमी बंगाल विधान सभा दारा दिनांक 24·12·98 को यथा अंगीकृत प्रस्ताव की विषय-वस्तु 0-----0

यह सदन गंभीर चिन्ता के साथ यह उल्लेख करता है =

कि भारत के लोगों और विदल्जनों को दितीय विश्व युद्ध के दौरान नेताजी सुभाष चन्द्र बोस के रहस्यमय तरीके से गायब हो जाने की बात की अभी तक कोई जानकारी नहीं है,

-यह कि नेताजी सुभाष चन्द्र बोस संबंधी जानकारी के बारे में संसद में भिन्न-भिन्न अवसरों पर भिन्न-भिन्न बयान दिए गए हैं,

- कि विमान दुर्घटना में नेताजी की कथित मृत्यु के बारे में भारत के उच्चतम न्यायालय और उच्च न्यायालय की न्यायिक उद्घोषणाओं से जनता के मन में और अधिक संदेह पैदा हुआ है,
- कि यूरोप, अमेरिका, सुदूर पूर्व तथा दक्षिण पूर्व पशिया के विभिन्न देशों तथा भारत में भी कथित विमान दुर्घटना के बाद नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से गायब होने के बारे में रखे गये अभिलेखों और दस्तावेजों को भारतीय जनता और यहां के विद्वलानों को उपलब्ध नहीं कराया गया है।

इस सदन का यह अभिमत है -

कि कथित विमान दुर्घटना में नेताजी सुभाष चन्द्र बोस की मृत्यु की रिपोर्ट को संदेह रिहत सिद्ध नहीं किया गया है, और

कि भारत सरकार द्वारा गठित दो जांच आयोगों की रिपोर्टी पर भारत की जनता और विद्धान विश्वास नहीं करते हैं ।

अतः, यह सदन, राज्य सरकार के माध्यम से मांग करता है कि भारत में या भारत के बाहर अभिलेखों या दस्तावेजों को उपलब्ध करने के लिए भारत सरकार को आवश्यक प्रबंध करने चाहिए ताकि लोग और बुद्धिजीवी उन्हें देख सकें और नेताजी सुभाष चन्द्र बोस की जानकारी के संबंध में रहस्यों से पर्दा उठाने के लिए एक नया जांच आयोग भी गठित कराया जा सके।

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परिशिष्ट-।।।

भ0सं0 **1/1/11034/18/98-डी**§।।।§ गृह मंत्रालय

> पश्चिम बंगाल सरकार संसदीय कार्य विभाग

> > दिनांक 6 औरल, 1999

संध्या 634-पि • ए •

प्रेषक : आर.पी.प्स. कहलों, आई.प.प्स. संयुक्त सचिव, संसदीय कार्य विभाग. पश्चिम बंगाल सरकार ।

सेवा में

श्री ए०के० पैटेण्डि, आई • ए • एस • , निदेशक, आन्तरिक सुरक्षा, गृह मंत्रालय, भारत सरकार

फैक्स सं0-011-3015750

महोदय,

कृपया नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता हो जाने के बारे में जांच आयोग गठित करने के संबंध में 5 औरल, 1999 को प्रधान सचिव, गृह तथा गृह सचिव, पश्चिम बंगाल सरकार के साथ दूरभाष पर हुई अपनी बाताचीत का स्मरण करें । इस विषय पर दिनांक 24 दिसम्बर, 1998 को पश्चिम बंगाल विधान सभा में एक संकल्प पारित किया गया ।

राज्य सरकार नेताजी सुभाष चन्द्र बोस के रहस्यमय ढंग से लापता होने की जांच कराने की सिफारिश करती है।

भवदीय,

天0/- आर•पी•प्स• कहलों
 संयुक्त सचिव 6.4.99

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गुप्त फा0सं0 |/1/11034/18/98-डी\111\ गृह मंत्रालय

परिशिष्ट-। 1/

गुप्त

💮 🖇 भारत के राजपत्र, असाधारण, भाग-।।, खण्ड 3, उपखंड 🛭 ।।४ में दिनांक

को प्रकाशनाध

भारत सरकार

गृह मंत्रालय

नई दिल्ली, दिनांक

का0आ0 यतः 16 अगस्त, 1945 के आसपास नेताजी सुभाष चन्द्र बोस के बैंकाक से प्रस्थान करने, एक विमान दुर्घटना के परिणामस्वरूप उनकी मृत्यु होने तथा उससे जुड़े अनुवर्ती घटनाक्रम से सम्बद्ध स्थितियों की जांच करने तथा भारत सरकार को इसकी रिपोर्ट देने के लिए भारत सरकार दारा क्रमशः औरल, 1956 तथा जुलाई, 1970 में गठित शाहनवाज सान समिति तथा सोसला जांच आयोग का निष्कर्ष यह था कि नेताजी सुभाष चन्द्र बोस की मृत्यु एक विमान दुर्घटना में हुई है।

और यतः जनता की यह व्यापक धारणा है कि नेताजी की मृत्यु के बारे में सच्चाई का पता लगाने की समस्या अभी भी बनी हुई है ।

और यतः इस मामले में आगे और जांच करने की निरंतर मांग रही है ।

और यतः कलकत्ता उच्च न्यायालय ने भी भारत सरकार को यह निर्देश दिया कि इस विवाद को समाप्त करने के प्रयोजन के लिए विस्तृत जांच कराई जए, यदि आवश्यक हो तो इस प्रयोजन के लिए जांच आयोग का गठन किया जाए ।

और यतः पश्चिम बंगाल विधान सभा में एक संकल्प पारित किया गया जिसमें इस मामले में आगे और जांच की मांग की गई है ।

और यतः केन्द्र सरकार का यह मत है कि सार्वजनिक महत्व के निश्चित मामले की यानि1945 में नेताजी सुभाष चन्द्र बोस के गायब हो जाने की जांच करने के उद्देश्य से एक जांच आयोग गठित किया जाना आवश्यक है।

THE R. P. LEWIS CO. LANS. WHERE HE WASTE THE W





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#### गुप्त फा0सं0 1/1/11034/18/98-डी{।।।} गृह मंत्रालय

अतः, अव जांच आयोग अधिनियम, 1952 १1952 का 60१ की धारा 3 दारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार प्तद्दारा एक जांच आयोग गठित करती है, जिसमें -

शामिल हैं।

2. 1945 में नेताजी सुभाष चन्द्र बोस के लापता होने से संबंधित सभी तथ्यों और पिरिस्थितियों और इससे संबंधित बाद की घटनाओं की यह आयोग जांच करेगा जिसमें निम्निलिसित शामिल हैं:-

कि वया नेताजी सुभाष चन्द्र बोस की मृत्यु हो गई है या जीवित हैं,

≬ग इंग व्या जापान के मंदिर में जो अस्थियां है, वह नेताजी की अस्थियां है,

§घ क्या उनकी मृत्यु किसी अन्य ढंग से किसी अन्य स्थान पर हुई है और यदि हां, तो कब और कैसे हुई,

्रेड • । यदि वह जीवित है, तो उनके ठौर-ठिकाने के बारे में बताया जाए । अग्रेटो उस तरीके की भी जांच करेगा जिसमें प्रकाशनों की जांच पड़ताल जिनमें नेताजी की मृत्यु या अन्यथा के प्रश्न पर प्रकाश डाला गया है, का कार्य सरकार दारा इन परिस्थितियों में किया जा सकता है ।

- अायोग अपनी रिपोर्ट केन्द्रीय सरकार को यथाशीच्र लेकिन इस अधिसूचना के प्रकाशन की तारीख से 6 माह के अन्दर प्रस्तुत करेगा ।
- 4• आयोग का मुख्यालय नई दिल्ली में और/अथवा आयोग दारा निर्धारित अन्य किसी स्थान पर होगा ।
- 5 केन्द्रीय सरकार की राय है कि मामले की अन्य पीरिस्थितियों और की जाने वाली जांच के स्वरूप को ध्यान में रखते हुए जांच आयोग अधिनियम, 1952 §1952 का 60 ई की धारा 5 की

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उप धारा \$2\$, उप धारा \$3\$, उपधारा \$4\$, और उप धारा \$5\$ के सभी उपबंध उक्त आयोग पर लागू किए जाने चाहिए और केन्द्रीय सरकार उक्त धारा 5 की उप धारा \$1\$ बरा प्रदत्त शिक्तयों का प्रयोग करते हुए प्लद्बरा यह निदेश देती है कि उस धारा की उक्त उप धारा \$2\$ से \$5\$ के सभी उपबंध आयोग पर लागू होंगे ।

§फा0सं0-V।-11034/18/98-आई0एस0-डी §।।।§

विशेष सचिव, भारत सरकार

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परिशिष्ट-\√

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### आयोग के लिए आवश्यक अर्नोतम स्वफ की सूची

क्रम संव	) पदनाम तथा वैतनमान	तिथि	पद की संख्या
1.	अध्यक्ष		1
2.	सचिव		1
3•	विशेष कार्य अधिकारी §12,750-16,500/-₹0	8	1
4 •	कोर्ट मास्टर \$10,000-15,200/-₹0\$		1
5.	अनुभाग अधिकारी		
	<b>§6,500-10,500/₹0§</b>		2
6•	सहायक		
	<b>§5,500-9,000/</b> <del>₹</del> 0 <b>§</b>		2
7•	लेखाकार		
	<b>§5,500-9,000/₹0§</b>		1
8 •	कोषपाल		
	§5,500-9,000/ <del>▼</del> 0§		1
9•	दाइपिस्ट ≬ 3,050-4,590/-₹0 ≬		2
10.	प्रधान निजी सचिव		
	<b>≬10,000-15,200/</b> ₹0 <b>≬</b>		1
11.	निजी सचिव		
	§6,500-10,500/-₹0§		2
12•	आशुलिपिक ग्रेड "ग"		
	§5,500-9,000/ <del>-</del> ▼0§		2
13•	चपरासी		
	§ 2550-3200/ <del>-</del> ₹0§		3
14.	जमादार		
15•			1
16.	वैलिफ		1
17.	आदेशिका तामीलकर्ता		
11.	<b>∦प्रोसेस सर्वर</b> ∦		1

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नेताजी सुभाष चन्द्र बोस के कथित रूप से गायब होने की जांच करने के लिए एक जांच आयोग गठित करने के बारे में मंत्रिमंडल नाट

#### वित्त मंत्रालय, व्यय विभाग से प्राप्त टिप्पणियों का विश्लेषण THE THE PARTY OF A PROPERTY OF

- 1 . पहले 1956 मे तथा दूसरी बार 1970 में दो जांच की जा चुकी है. जिनमें यह निष्कर्ष निकला कि नेताजी की मृत्यु हो गई थी । इतने वर्ष व्यतीत होने के बाद नई जांच के कोई भिन्न परिणाम निकलना संदेहास्पद है । दूसरे जांच आयोग का गठन परिहार्य प्रतीत होता है ।
- इस जांच आयोग का कोई कार्यकाल निर्धारित नहीं किया गया है। वित्तीय निहितार्थ का आंकलन करने के लिए यह अपेक्षित है।
- अपेक्षित बजटीय सहायता नहीं दर्शायी 3 . गई है. इसका आकलन अपेक्षित है।

### गृह मंत्रालय का स्पष्टीकरण

वर्तमान आयोग का प्रस्ताव जांच आयोग अधिनियम के अंतर्गत रिट याचिका संख्या 281 पर कलकत्ता के निर्णय उच्चन्यायालय 29 • 12 • 98 को पश्चिम बंगाल विधान सभा में पारित प्रस्ताव के अनुपालन में किया जा रहा है जिसकी पश्चिम बंगालसरकार दारा सिफारिश की गई है। अधिसचना के मसौदा ईपरिशिष्ट -11/8में आयोग के लिए छह माह का कार्यकाल निर्धारित किया गया है।

> परिशिष्ट-।/ पर दिए गए विवरण में उल्लिखित अध्यक्ष एवं अधिकारियों/कर्मचारियों के वेतन के लिए 38,8000 रूपए प्रतिवर्ष की राशि अपेक्षित होगी । तथापि, आयोग के कार्यकरण को शुरू करने में उसे समर्थ बनाने के लिए यह प्रारंभिक अपेक्षा है, तथा इसमें और वृद्धि हो सकती हैं जो कि वास्तविक अपेक्षा पर निर्भर होगी।





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4. जांच आयोग के अध्यक्ष/सदस्यों के रूप में नियुक्त किए गए सेवा निवृत्त न्यायाधीओं के निबंधन एवं शर्तों के संबंध में व्यय विभाग के दिनांक 8.10.1987 के का. जा. को ध्यानमें रखते हुए अध्यक्ष का वेतनमान 30,000/-रू० केवल तभी होगा, यदि वह उच्चतम न्यायालय का सेवा निवृत्त न्यायाधीश हो

जांच करने के लिए उच्च न्यायालयों अथवा भारत के उच्चतम न्यायालय के सेवा निवृत्त न्यायाधीशों में से किसी की नियुक्ति करने के लिए पैरा 6•2 में किया गया प्रस्ताव अनंतिम है तथायह मंत्रिमंडल के अनुमोदन पर निर्भर करेगा ।

उहां तक अन्य पदों के सुजन का संबंध है, प्रस्ताव को फाइल पर प्रस्तुत किया जाए जिसमें प्रत्येक पद के सुजन के लिए पूर्ण कियात्मक औचित्य दिया जाए तथा इसके समर्थन में उतनी ही बचतें दर्शायी जाएं।

प्रत्येक पर के सृजन के लिए पूर्ण कियात्मक औचित्य का उल्लेख करते हुए इन पदों के सृजन के लिए एक विशिष्ट प्रस्ताव अलग से फाइल पर प्रस्तुत किया जाएगा तथा मंत्रिमंडल बारा सिदांत रूप में इसका अनुमोदन किए जाने के बाद इसे वित्त मंत्रालय, व्यय किमाग को भेजा जाएगा